

Central Coast

Local Planning Panel

Central Coast
LOCAL PLANNING PANEL MEETING
Business Paper
10 June 2021



Meeting Notice

**The LOCAL PLANNING PANEL MEETING
of Central Coast
will be held remotely - online,
THURSDAY 10 JUNE 2021 at 2.00 pm,
for the transaction of the business listed below:**

1 PROCEDURAL ITEMS

1.1 Disclosures of Interest3

2 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 Confirmation of Minutes of Previous Meeting.....4

3 PLANNING REPORTS

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot
subdivision14

Kara Krason
Chairperson

Item No: 1.1
Title: Disclosures of Interest
Department: Governance

10 June 2021 Local Planning Panel Meeting

Reference: F2020/02502 - D14205789

The NSW Local Planning Panel Code of Conduct states that all panel members must sign a declaration of interest in relation to each matter on the agenda before or at the beginning of each meeting.

Recommendation

That Panel Members now confirm that they have signed a declaration of interest in relation to each matter on the agenda for this meeting and will take any management measures identified.

Item No: 2.1
Title: Confirmation of Minutes of Previous Meeting
Department: Environment and Planning

10 June 2021 Local Planning Panel Meeting

Reference: F2020/02502 - D14664910

Author: Rachel Callachor, Administration Officer

Summary

The Minutes of the following Meetings of the Local Planning Panel, which have been endorsed by the Chair of that meeting, are submitted for noting:

- ***Local Planning Panel Meeting held on 13 May 2021***
- ***Electronic Determination regarding DA57958/2020 dated 2 June 2021***

Recommendation

That the minutes of the previous Local Planning Panel Meeting held on 13 May 2021.

Attachments

- | | | |
|----------|---|-----------|
| 1 | MINUTES - Local Planning Panel - 13 May 2021 | D14635348 |
| 2 | MINUTES - Electronic Determination - DA57958/2020 - 2 June 2021 | D14669614 |



Local Planning Panel

Minutes of the **LOCAL PLANNING PANEL MEETING**

Held remotely - online
on 13 May 2021

Panel Members

Chairperson	Donna Rygate Grant Christmas (for item 3.3 only)
Panel Experts	Grant Christmas Sue Francis
Community Representative/s	Glenn Watts

Central Coast Council Staff Attendance

Wayne Herd	Section Manager Building Certification South
Alisa Prendergast	Section Manager Development Assessment South
Robert Eyre	Principal Development Planner Development Assessment South
Karen Hanratty	Senior Development Planner Development Assessment South
Anna McKeough	Team Leader Business Support North
Rachel Callachor	Administration Officer Business Support South
Belinda Jennett	Administration Officer Business Support South
Kathryn Williams	Administration Officer Business Support South

The Chairperson, Donna Rygate, declared the meeting open at 2:07pm and advised in accordance with the Code of Meeting Practice that the meeting was being recorded.

The Chair read an acknowledgement of country statement.

The Chair advised that Grant Christmas would take role of the Chair for item 3.3.

Apologies

The Panel noted that no apologies had been received.

1.1 Disclosures of Interest

That Panel Members now confirm that they have signed a declaration of interest in relation to each matter on the agenda for this meeting and will take any management measures identified.

Moved: Grant Christmas
Seconded: Sue Francis
Unanimous

2.1 Confirmation of Minutes of Previous Meeting

The Minutes of the following Meeting of the Local Planning Panel, which have been endorsed by the Chair of that meeting, were submitted for noting:

- **Local Planning Panel Meeting held on 22 April 2021.**

Moved: Grant Christmas
Unanimous

Public Forum

The following people addressed the Panel:

Agenda item 3.2

Pierre Le Bas, Kelvin Templeton, Bruce Swalwell against the application
Peter Elias and Milos Obradovic (on behalf of applicant)

Donna Rygate left the public meeting at 2:46pm and was not present for agenda item 3.3.

Agenda item 3.3

David Cooper, Victoria Kossoff Gaborit, Chris Gaborit, Helen Monks, Simone Tsigolis
against the application
Matt Thitchener (on behalf applicant)

The Local Planning Panel public meeting closed at 3:17pm. The Panel moved into deliberation from 3:23pm and Donna Rygate rejoined the meeting. Donna Rygate left the deliberative meeting at 3:38pm and was not present for discussion of item 3.3. Grant Christmas took over the Chair for item 3.3.

3.1 DA 60262/2020 - 2 Scenic Highway, Terrigal - Ex-HMAS Adelaide Mast at the Terrigal Haven on to a plinth footing with landscaping and provision for a flagpole

Due to the need to obtain advice on a late request from the applicant, the matter was not considered.

3.2 DA59347/2020 - 2C Amethyst Avenue Pearl Beach - New Dwelling House Alterations & Additions Keeping Existing Ground Floor Cottage in its Current Form

Site Inspected Yes

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- 31 submissions

Council Recommendation Approval

Panel Decision **1** *That the Local Planning Panel grant consent to DA59347/2020 for New Dwelling House Alterations & Additions Keeping Existing Ground Floor Cottage in its Current Form on LOT: 2 DP: 838892, 2C Amethyst Avenue PEARL BEACH subject to the new condition below and the conditions detailed in the schedule attached to the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.*

New Condition:

That the proposed deck and associated screening on the eastern boundary of the first floor be deleted in its entirety. All access to the eastern side deck is to be removed. All proposed doors are to be deleted and replaced with windows. At the juxtaposition of the eastern deck with the rear deck the length of the rear deck is to be reduced by the width of the proposed eastern deck at that point and appropriate balustrades provided. Details of the amendments to be provided on plans and approved prior to the issue of a Construction Certificate

2 ***That Council advise those who made written submissions of the Panel's decision.***

Reasons 1 The Panel considered the submissions from residents and the applicant. The Panel accepts that the proposal can be

3.3 DA60516/2020 - 63 Wagstaffe Avenue Wagstaffe - Dwelling House (New) and Garage

Site Inspected Yes

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- 15 submissions

Council Recommendation Approval

Panel Decision **1** *That pursuant to the provisions of clause 4.6 of the Gosford Local Environmental Plan 2014 ("the LEP"), the Panel is satisfied that the written request in relation to the contravention of the floor space ratio*

development standard in clause 4.4(2) of the LEP has adequately addressed the required matters in clause 4.6 of the LEP. The Panel agrees that the written request demonstrates that compliance with the development standard is unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the objectives of the floor space ratio standard and the objectives for development within the R2 - Low Density Residential zone in which the development is proposed to be carried out.

2 *That the Local Planning Panel assume the concurrence of the Secretary of the Department of Planning to permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.*

- 3 That the Local Planning Panel grant consent to DA60516/2020 – 63 Wagstaffe Avenue Wagstaffe – New Dwelling House and Garage subject to the conditions detailed in the schedule attached to the report; the additional conditions required by the Panel as detailed in these Minutes below; and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.**

New Conditions:

- (a) To ensure privacy across common boundaries, the glass to the walkway between the western and eastern pavilions is to be obscure on both the northern and southern sides of the walkway or, in the alternative, both sides of the walkway are to have fixed external privacy screens permanently angled at 45 degrees.**
- (b) To allow accessibility around the site the ground floor and first floor of the eastern pavilion is to be setback 630mm from the northern boundary for the whole of their length (the same as that proposed for the western pavilion).**
- (c) To allow for view sharing across sites at the water's edge, the ground and first floor deck of the eastern pavilion is to have openings/apertures in both the northern and southern walls of 1.5 metres in width, commencing at 1.0m above floor level and continuing to the ceiling height of the deck.**
- 4 That Council advise those who made written submissions of the Panel's decision.**
- 5 That Council advise relevant external authorities of the Panel's decision.**

Reasons

- 1** The Panel was concerned regarding the likelihood of overlooking between neighbours on what are very narrow blocks. Further, legitimate concern was raised by objectors and shared by the Panel regarding the sharing of views across boundaries at the waterfront and to the accessibility around the site (particularly given the breach of the FSR). Accordingly, the Panel

requires that the above conditions be imposed on the consent.

- 2 The Panel considered that, subject to the additional conditions proposed, the development was of a reasonable scale and was well designed having regard to the narrow width and small site area of the subject property.
- 3 The Panel considered that, subject to the additional conditions, the proposal would not have unreasonable impacts on neighbouring properties.

Votes

The decision was unanimous.



Local Planning Panel

Minutes of the LOCAL PLANNING PANEL MEETING

Panel Members

Chairperson	Kara Krason
Panel Experts	Grant Christmas Greg Flynn
Community Representative/s	Scott McGrath

A Supplementary Report was provided to the Local Planning Panel on 10 May 2021, as per request at the Panel meeting of 25 February 2021 where the matter was deferred.

The Local Planning Panel members considered the supplementary report and supporting documents for DA57958/2020 - 138-140 Davistown Road, Saratoga - Telecommunications Tower via electronic determination.

Relevant Considerations

As per Council assessment report and Supplementary report

Material Considered

- Documentation with application
- Council assessment report
- Submissions
- Supplementary Memo, 24 February 2021
- Supplementary Report, 10 May 2021

Council Recommendation

Approval subject to conditions

Panel Decision

- 1 That the Local Planning Panel assume the concurrence of the Secretary of the Department of Planning to permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.***

- 2 That pursuant to the provisions of clause 4.6 of the Gosford Local Environmental Plan 2014 ("the LEP"), the Panel is satisfied that the written request in relation to the contravention of the height of buildings development standard in clause 4.3(2) of the LEP has adequately addressed the required matters in clause 4.6 of the LEP. The Panel agrees that the written request demonstrates that compliance with the development standard is unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard. Further, the Panel considers that the proposed development will be in the public interest because it is consistent with the relevant objectives of the height of buildings development standard and the relevant non-residential land use objective for development within the R2 - Low Density Residential zone in which the development is proposed to be carried out.**
- 3 That the Local Planning Panel grant consent to DA57958/2020 - 138-140 Davistown Road, Saratoga - Telecommunications Tower subject to the conditions detailed in the schedule attached to the report presented to the 25 February 2021 meeting and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.**
- 4 That Council advise those who made written submissions of the Panel's decision.**

Reasons

- 1 The proposal (as amended) is satisfactory having regard to the relevant environmental planning instruments, plans, policies the site and its context.
- 2 The environmental impacts are acceptable after consideration in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.
- 3 Where environmental impacts exist, they are appropriately managed or mitigated by the proposed design or conditions of consent.
- 4 The public interest is served by providing for an improved and necessary technological service.

Votes The decision was unanimous

Date: 2 June 2021

Item No: 3.1
Title: DA 55715/2018 - 35-45 Clarence Road, Springfield
- Four (4) lot subdivision
Department: Environment and Planning

10 June 2021 Local Planning Panel Meeting

Reference: 011.2018.00055715.001 - D14573922
Author: Brian McCourt, Development Planner
Manager: Ailsa Prendergast, Section Manager, Development Assessment South
Approver: Andrew Roach, Unit Manager, Development Assessment

Summary

An application has been received for a Four (4) lot subdivision. The application has been examined having regard to the matters for consideration detailed in section 4.15 of the *Environmental Planning and Assessment Act* and other statutory requirements with the issues requiring attention and consideration being addressed in the report.

The application is referred to the Local Planning Panel due to the number of submissions. 61 submissions have been received.

The application is recommended for refusal as detailed in this assessment report.

Applicant	AConsult
Owner	Heli 1 Pty Ltd
Application No	DA 57715/2018
Description of Land	Vacant land
Proposed Development	Four (4) lot subdivision
Site Area	4.148 ha
Zoning	7(a) Conservation / 7(c2) Scenic Protection
Existing Use	Nil
Employment Generation	Nil
Estimated Value	Nil

Recommendation

1 That the Local Planning Panel refuse the application Development Application No. 55715/2018 for Four (4) lot subdivision on Lot 6 -7 DP 9777248, 35 -45 Clarence Road Springfield for the following reasons:

- i. The subdivision is contrary to the provisions of Clause 18(3) of Interim Development Order 122 (IDO 122) relating to consistency with the zone objectives.**
- ii. The subdivision is contrary to the provisions of Clause 18 (4) of Interim Development Order 122 (IDO 122) relating to the character of the site and surrounding area.**

- iii. The subdivision is contrary to Clause 39A(2)(b)(viii) of Interim Development Order 122 (IDO 122) relating to development near zone boundaries.**
- iv. Inadequate information has been provided in relation to GDCP 2013 Clause 3.6 .4.2(c)(i) Subdivision of Rural and Non – Urban Land Arrangement of Lots – Tree Preservation.**
- v. Inadequate information provided for assessment as detailed below:**
- a. Inaccurate information as the contours on the amended plan have been identified as incorrect.**
 - b. Access does not provide a sufficient vegetated buffer to the Rhodamnia population.**
 - c. Insufficient information is provided relating to the turning heads required by RFS (and the Bushfire Assessment) and the potential impact on trees in the amended Arboricultural Impact Assessment report.**
 - d. The building envelope and corresponding APZ on Lot 2 results in the need for clearing in the rainforest buffer area.**
 - e. The APZ for Lot 3 (and possibly Lot 4) results in the need for clearing in the rainforest buffer area.**
 - f. Submitted amended plans are not consistent. The current subdivision plan shows a larger APZ for Lots 1 and 2 than shown in all the reports.**
 - g. The proposal's impacts on better condition valued trees within the APZ beyond 10m from the dwelling footprints.**
 - h. The proposal does not address the trees impacted by required access design.**
 - i. The proposal contains anomalies between tagged tree locations and report submitted.**
 - j. The documentation does not contain clarification of what is proposed for the dam, including that area of the dam that currently extends close to the building envelope for Lot 2. Removal of the dam as suggested by the ecologist is not supported.**

2 That Council advise those who made written submissions of the Panel's decision.

3 That Council advise relevant external authorities of the Panel's decision.

Key Issues

- The subdivision is contrary to the provisions of Clause 18(3) of Interim Development Order 122 (IDO 122).
- The subdivision is contrary to the provisions of Clause 18 (4) of Interim Development Order 122 (IDO 122).

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

- The subdivision is contrary to Clause 39A(2)(b)(viii) of Interim Development Order 122 (IDO 122).
- Inadequate information has been provided in relation to Clause 3.6.4.2(c)(i) Subdivision of Rural and Non – Urban Land Arrangement of Lots– Tree Preservation
- Inadequate information provided for assessment of the development application relating to ecological matters.

Precis:

Proposed Development	Four (4) lot subdivision
Permissibility and Zoning	7(a) Conservation / 7(c2) Scenic Protection
Relevant Legislation	Environmental Planning and Assessment Act, Interim Development Order No.122, Gosford Development Control Plan 2013
Current Use	Vacant Land
Integrated Development	<u>Rural Fire Service</u>
Submissions	61 submissions

Variations to Policies

Clause	Cl 18(3) Minimum lot size – 22% variation – IDO 122
Standard	Cl 18(4) Subdivision of sub standard lot – variation n/a Cl 39A Development Near Boundary of Certain Adjoining Zones
LEP/DCP	GDCP 2013 – Cl 3.6.4.2 (c.)(i)Tree Preservation – variation n/a
Departure basis	Subdivision size

Background

Previous Rezoning Proposal

The majority of the site is zoned *7(c2) Scenic Protection* with a small portion along the northern boundary zoned *7(a) Conservation*. A Planning Proposal was submitted in 2016 which proposed rezoning a significant proportion of the site from its current Conservation and Scenic Protection zoning to *R2 – Low Density Residential*.

It was proposed that the amendment to the zoning could enable the creation of approximately 20 lots (refer to figure 1 - noting that a number of potential layout options were considered through the rezoning process, and the option set out in figure 1 was just one of the options).

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

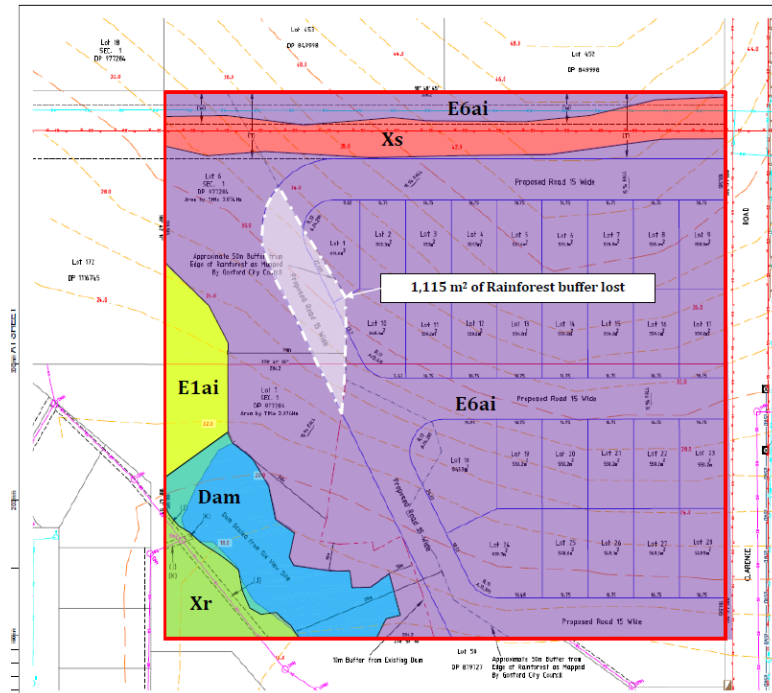


Figure 1 – Early Proposed Concept Subdivision Layout Suggested as part of Planning Proposal

The Planning Proposal was considered by Council at the Ordinary Meeting of 30 August 2017. The proposal to rezone the land was not supported. The resolution of that meeting are as follows:

RESOLVED on the motion of Mr REYNOLDS:

542/17 That Council not support the request to prepare a planning proposal to rezone parts of Lot 6 and Lot 7 Section 1 DP 977284 Clarence Rd, Springfield from 7(c2) Scenic Protection (Rural Small Holdings) under Interim Development Order Number 122 to R2 Low Density Residential under Gosford Local Environmental Plan 2014, for the following reasons:

- a. The land contains ecological and physical attributes consistent with the existing 7(c2) Scenic Protection (Rural Small Holdings) zone and is unsuitable to be rezoned to R2 Low Density Residential zone;*
- b. The proposed residential zoning is not supported by any local or regional planning strategies;*
- c. The proposed rezoning would adversely impact on the biodiversity of the site as it would facilitate significant vegetation removal associated with future residential development, construction and bushfire asset protection;*
- d. Inconsistency with the Central Coast Regional Plan 2036;*
- e. The planning proposal conflicts with Council's Coastal Open Space System strategy which identifies the land for voluntary land acquisition.*

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

Current Application

The current development application was submitted in November 2018. After initial assessment of the application, a number of significant issues were identified, the applicant was advised that the application required a large amount of additional information. Based on the information available to Council officers at the time of lodgement, the proposed subdivision would be unlikely to be supported.

At that stage the applicant requested that Council provide a short period of time for the preparation of amended documentation. It was agreed in January 2020 that amendments would be considered.

Amendments to the application were received on 30 November 2020 and form the basis of this assessment. The amendments included the provision of building envelopes and resultant Bushfire Asset Protection Zone (APZ) requirements. In addition, the results from ground truthing of critically endangered flora species *Rhodamnia ruescens* were included in the amended documentation.

Comments on the amended development application were received from;

- Environment (see full response in report);
- Tree assessment officers (see full response in report); and
- Development Engineering officers (see full response in report).

Rural Fire Service Referral

As the development application is classed as Integrated Development the Rural Fire Service (RFS) was requested to comment.

The RFS on viewing the original application requested additional information in January 2019 as a result of incomplete information noting that only two lots showed building envelopes with required APZs. This information was subsequently provided by the applicant and the RFS provided further comments in March 2019 (provided General Terms of Approval).

However, through the assessment of the proposal and the amended bushfire information, it became evident that the building envelopes and required Asset Protection Zones would result in significant loss of vegetation, including valued trees.

There is also an issue raised with the wider impact on vegetation that will be required for other infrastructure and servicing arrangements, including provision for turning circles in accordance with the bushfire requirements.

The extent of impacts and the implications of the building envelopes, required APZs and the like (as proposed) is not supported by Council and is not consistent with the 7(c2) *Scenic Protection* and 7(a) *Conservation* zoning of the land.

The Site

The subject site consists of two lots:

- Lot 7 Section 1 DP 977284 (No. 35 Clarence Road, Springfield) zoned 7(c2) *Conservation and Scenic Protection (Scenic Protection- Rural Small Holdings)*; and
- Lot 6 Section 1 DP 977284 (No. 45 Clarence Road, Springfield) zoned part 7(a) *Conservation and Scenic Protection* and part 7(c2) *Conservation and Scenic Protection (Scenic Protection- Rural Small Holdings)*. The 7(a) portion of the subject site, running along the northern boundary of the site, currently supports an easement for dual purposes (underground water main/hydrant and transmission lines). The balance, and majority of this site is zoned 7(c2) zone.

Currently, lands supporting both 7(a) and 7(c2) zones and are identified as being "Deferred Non-Urban Land" and are referred to as "Deferred Matter" (DM) on the *Gosford Local Environmental Plan (LEP) Land Application Map*.

The entire section of 7(a) land is either/or subject to a transmission line or an easement for a pipeline 12.19m wide. There has been some clearing of vegetation in this narrow portion.

The combined area of the site is 4.148ha. The 7(a) portion of the site is 5,152 sq.m. in area whilst the 7(c2) portion of the site is 3.63 ha. in area. The sites have an approximate 200m frontage to Clarence Road. The subject land is heavily vegetated.

The south-western portion of the land is flood impacted.

Surrounding development to north consists of Council owned reserves and the Springfield Quarry. Development on other frontages consists of detached housing zoned *R2 – Low Density*.

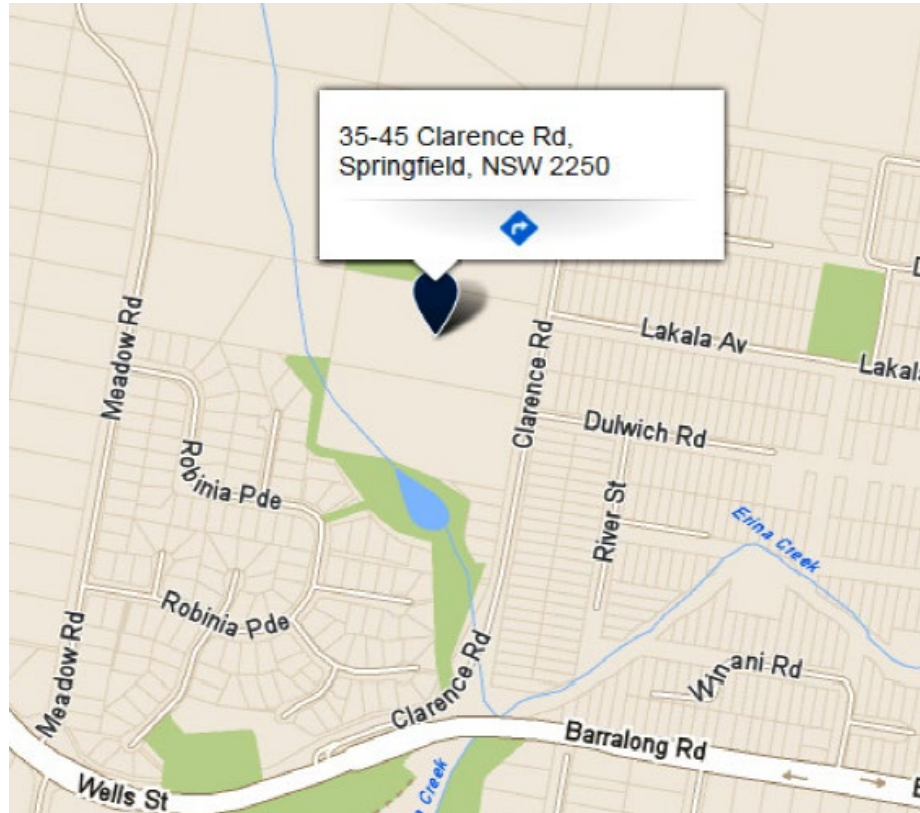


Figure 2 – Site Location



Figure 3-Aerial photograph

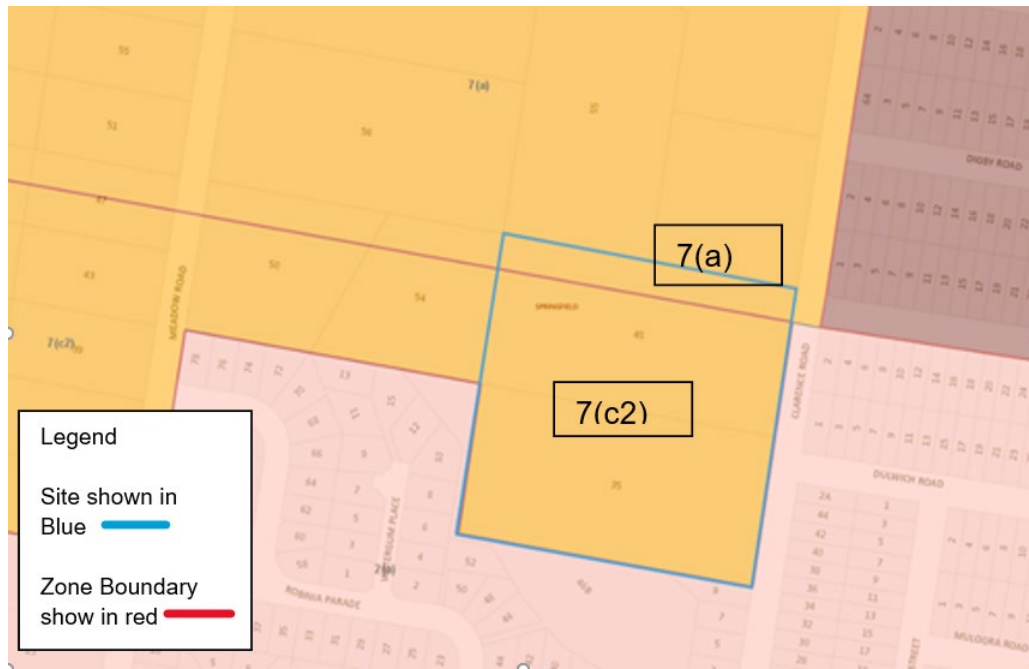


Figure 4 – Current Zoning (Split zone under the IDO 122)



Figure 5 Extent of Flood Prone land



Figure 6 - Vegetation (Rainforest – light green)



Figure 7 – Council Identified Wildlife Corridor



Figure 7 – COSS Land (Voluntary Acquisition)

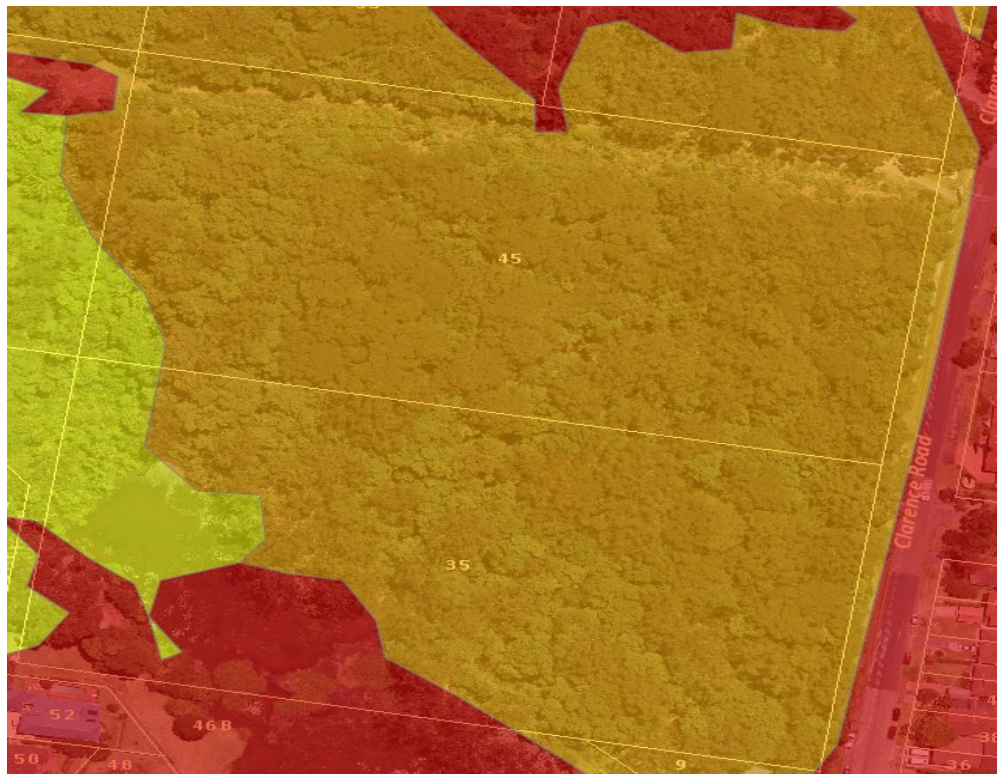


Figure 8 – Bushfire Extent

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

The Proposed Development

The proposal is for the subdivision of the existing two lots into 4 lots. The proposed development is classified as integrated development under Section 91 of the EP & A Act, 1979 requiring referral to the NSW Rural Fire Service seeking General Terms of Approval. The proposed lot details are provided below;

LOT NUMBER	LOT SIZE UNDER IDO 22	ZONE	PROPOSED	COMPLIANCE
1	2.0 ha. 1.0ha with Bonus lot contribution	7(c2) Conservation and Scenic Protection	10,371m ² (1.037(Ha))	Yes
2	2.0ha 1 ha with Bonus lot contribution	7(c2) Conservation and Scenic Protection (Scenic Protection-Rural Small Holdings) -	10,350m ² (1.035 (Ha))	Yes
3	2 ha - 7 (c2) with all 7(a) in one lot	"Split Zoned" 7(a) Conservation and Scenic Protection and 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings).	10,371m ² (1.037 hectares (Ha)) 7(c2) portion- 7,795 m ² (7.795 hectares (Ha)) 7(a) portion- 2,576 m ² (2.576 hectares (Ha))	No
4	2Ha – with all 7(a) in lot3	"Split Zoned" 7(a) Conservation and Scenic Protection and 7(c2) Conservation and Scenic Protection (Scenic Protection - Rural Small Holdings).	10,374m ² (1.037 hectares (Ha)) 7(c2) portion- 7,798 m ² 7(a) portion- 2,576 m ²	No

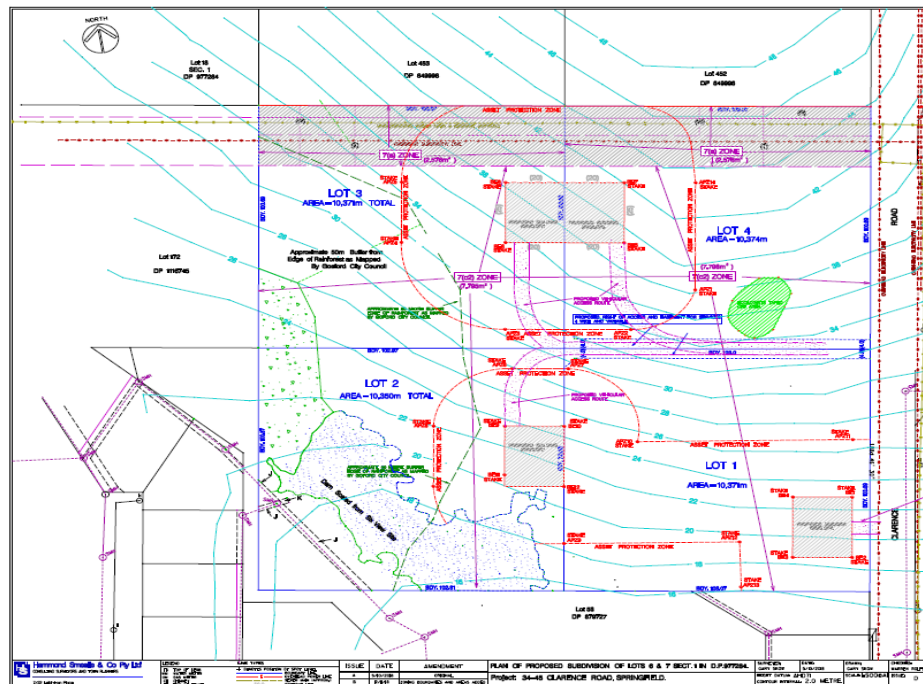


Figure 9 - Proposed Subdivision and Extent of APZs for Dwellings



Figure 10 -50m Rainforest buffer on Proposed Subdivision



Figure 11 – Relationship Between Rainforest Buffer and APZs



Figure 12 – Relationship Between Rainforest Buffer and APZs

ASSESSMENT:

Having regard for the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other statutory requirements, the assessment has identified the following key issues, which are elaborated upon for the information of the Local Planning Panel. Any tables relating to plans or policies are provided as an attachment.

Provisions of Relevant Instruments/Plans/Policies:

The following planning policies and control documents are relevant to the development and were considered as part of the assessment.

- *Environmental Planning & Assessment Act 1979 – Section 4.15*
- *Local Government Act 1993 – Section 89*
- *State Environmental Planning Policy (Coastal Management) 2018*
- Interim Development Order No 122
- Gosford Development Control Plan 2013
- Rural Fires Act 1997

Draft Environmental Planning Instruments

Draft Central Coast Local Environmental Plan

The *Draft Central Coast Local Environmental Plan* applies to this application. The exhibited version of the Draft Central Coast LEP proposes amending the zoning the site to *E2 – Environmental Conservation*. The proposed lot sizes for subdivision under the draft instrument for land zoned *E2 - Conservation* is 40 hectares. The provisions of the draft plan and its objectives for the *E2* zone have been considered in the assessment of this application.

State Environmental Planning Policies

State Environmental Planning Policy (Coastal Management) 2018

The provisions of *State Environmental Planning Policy (Coastal Management) 2018* require Council consider the aims and objectives of the SEPP when determining an application within the Coastal Management Area. The Coastal Management Area is an area defined on maps issued by the NSW Department of Planning & Environment and the subject property falls within this zone.

The relevant matters have been considered in the assessment of this application. The application is considered consistent with the stated aims and objectives.

Interim Development Order No 122

The land is captured as a “*Deferred Matter*” pursuant to Clause 1.3 (1A) and 1.8 (2) of *Gosford Local Environmental Plan 2014*, which states:

“1.3 Land to which Plan applies

(1A) Despite subclause (1), this Plan does not apply to the land identified as “Deferred Matter” on the Land Application Map.”

“1.8 Repeal of planning instruments applying to land

(2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.

Note. *While Gosford Planning Scheme Ordinance and Interim Development Order No 122—Gosford no longer apply to the land to which this Plan applies, they will continue to apply to the land identified as “Deferred Matter” under clause 1.3 (1A).”*

As such, the assessment and determination of this application has been made under the statutory provisions of *Interim Development Order (IDO) No 122*.

Interim Development Order No 122 - Permissibility

The subject site is zoned Conservation 7(a)/Conservation and Scenic Protection 7 (c2) under *Interim Development Order No 122*. The proposed development is defined as subdivision which is permissible in the zone with consent of Council.

Interim Development Order No 122 - Clause 5 - Zone Objectives

The 7(a) zone has the following objectives:

- (a) the conservation and rehabilitation of areas of high environmental value;*
- (b) the preservation and rehabilitation of areas of high visual and scenic quality in the natural landscape;*
- (c) the provision and retention of suitable habitats for flora and fauna;*
- (d) the prohibition of development on or within proximity to significant ecosystems, including rainforests and estuarine wetlands;*
- (e) the provision and retention of areas of visual contrast within the City, particularly the "backdrop" created by the retention of the ridgelines in their natural state;*
- (f) the provision of opportunities for informal recreational pursuits, such as bushwalking and picnics, in appropriate locations;*
- (g) the minimisation or prohibition of development so that the environmental and visual qualities of the natural areas are not eroded by the cumulative impact of incremental, individually minor developments;*
- (h) the minimisation or prohibition of development in areas that are unsuitable for development by virtue of soil erosion, land slip, slope instability, coastal erosion or bushfire hazard.'*

The 7(c2) zone objectives are:

- (a) to provide a buffer or transition zone between conservation areas and urban areas; and*
- (b) to enable development for the purposes of rural-residential holdings to be carried out on land which is suitable for those purposes and which is unlikely:
 - (i) to adversely affect the aesthetic and scenic value of the land and its setting; or*
 - (ii) to create a demand for the uneconomic provision of services; and**

(c) to allow for non-residential uses where those uses are:

- (i) compatible with rural-residential development and unlikely to create an unreasonable demand for public services or substantially reduce existing levels of service;
- (ii) unlikely to adversely affect the aesthetic and scenic value of the land and its setting; and
- (iii) unlikely to interfere unreasonably with the amenity of adjoining properties

The proposed subdivision is considered not to be in accordance with the zone objectives for either zone.

It is noted that the Conservation 7(a) portion of the site is relatively small, and has been the subject of previous vegetation removal for the installation of services/infrastructure. However, the further clearing and vegetation removal in this location is not in accordance with the zone objectives, specifically those relating to the protection and rehabilitation of the natural landscape. It is further noted that the proposed subdivision aims to divide the 7(a) portion, which is not desirable for the future management of such lands.

The majority of the site is zoned Scenic Protection 7(c2). It is recognized that the zone objectives emphasise the aesthetic and scenic values of 7(c2) land rather than the ecological characteristics and that the zone aims to 'enable development for the purposes of rural-residential holdings to be carried out', but only in circumstances where such development is '...on land which is suitable for those purposes'.

Given the characteristics of the site, the impacts of the proposed subdivision, the necessary clearing for the purposes of asset protection zones, vehicular access/turning and the like, the proposed current subdivision design is not in accordance with the zone objectives.

Interim Development Order No 122 - Character of the Area

Clause 5(4) of the Interim Development Order states that:

'The Council must not grant consent for development unless it has taken into consideration the character of the development site and the surrounding area, where, for the purpose of this provision, character means the qualities that distinguish each area and the individual properties located within that area.'

The relevant desired character statement (from the Gosford Development Control Plan 2013) as it relates to the land is as follows, with comments:

'These should remain rural-residential buffers between surrounding urban areas, where the scenically-distinctive qualities and amenity of existing secluded settings are preserved by very-low density residential development plus low-impact rural activities or businesses that are associated with a dwelling.'

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

Comment The subdivision would comply with this section of the character statement as it would result in very low density residential development.

Retain natural slopes and prevent further fragmentation of the tree canopy in order to maintain habitat values and informal scenic characters of hillside or valley properties, plus meandering roads with unformed verges. Along creeks, ridges, slopes or road frontages, conserve all mature bushland remnants that provide scenically-prominent backdrops visible from any road or nearby property. Limit intrusion of structures upon their landscape setting by concentrating new buildings in existing clearings and using low-impact construction such as suspended floors and decks rather than extensive cut-and-fill, particularly on elevated slopes or near bushland.

Comment: Subdivision of the land in itself will not impact on the character of the area. Subdivision in accordance with existing development standards with appropriately located dwellings may result in development being created that would be in accordance with this section of the character statement.

In areas that are defined as bushfire prone, hazard must not be increased by inappropriate new plantings or structures. Minimise the extent of cleared asset protection zones by fire-resistant siting, design and construction for all new structures plus effective management of gardens. The ideal compromise between desired scenic quality and hazard-reduction would limit clearing to the understorey plus thinning of the canopy to establish breaks between existing trees.'

Comment: The subdivision in itself does not result in a change to the character. Development at the density permitted and in locations that minimize the level of clearing required may result in an outcome that can be in accordance with the character statement.

Interim Development Order No 122 – Development Standards

Development Standard	Description	Required	Proposed	Compliance with Control	Compliance with Objective
CI 18 (3)	Lot Size	1ha (subject to Bonus Lot Contribution)	7798 sq.m. & 7795 sq.m.	No, see comments below	No, see comments below
CI 18(4)	Subdivision of sub standard lot.	1 ha/ 2576sq.m.	7795sq.m./ 2576 sq.m.	No	No

Interim Development Order 122 Clause 18/19 Provisions

As such, the assessment and determination of this application has been made under the statutory provisions of *Interim Development Order (IDO) No 122*.

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

Clause 18 (3) of IDO 122 states:

Except as provided in subclauses (4) and (5), a person shall not subdivide land to which this Clause applies so as to create an allotment having an area of less than:

- (a) in the case of land within Zone No. 1(c), 1(d), 7(a), 7(c4), 7(d) or 7(e) -40 hectares;*
- (e) in the case of land within Zone No. 7(c2) - 2 hectares.*

Interim Development Order 122 - Minimum Site Area

The proposed development is permissible with Council's consent, pursuant to the Statutory Provisions of clause 18 (4) (b (ii)) of *Interim Development Order (IDO) No 122. (Bonus Lot Provisions)* which reads:

Clause 18(4) of IDO 122 states:

'A person may, with the consent of the Council -

- (a) subdivide land to which this Clause applies, subject to Clause 19(3) where -*
 - (i) the land is partly within one zone and partly within another zone;*
 - (ii) the area of the land within one of the zones is not less than the area specified in subclause (3) in respect of that zone;*
 - (iii) the area of the land in the other zone is less than the area specified in subclause (3) in respect of that zone; and*
 - (iv) one of the allotments to be created by the subdivision comprises the whole of the land referred to in subparagraph (iii);'*

Clause 18(4)(a)(i) refers to site which is split zoned with the main portion being zoned 7(c2) and 7(a).

Clause 18(4)(a)(ii) permits the whole of one (1) proposed lot in the subdivision of an existing lot that is split zoned to be permitted to be less than the standard lot size through Clause 18 (3).

The 7(c2) portion of the subject land is 3.63 ha area. The 7 (c2) portion then meets the minimum requirements of clause 18(3) which is 2ha. The 7(a) portion is 5152 sq.m. The 7(a) portion does not meet the minimum requirements of clause 18(3) which is 40 hectares. Clause 18(4)(a)(iii) allows for the area of land in one of the zones to be less than the minimum of Clause 18(3). In this instance the 7(a) portion is less than the minimum.

Clause 18(4)(a)(iv) allows the 7(c2) portion of the subject land to be subdivided as long as the 7(a) portion (which is less than the minimum requirement of clause 18(3)) is wholly contained within one of the resulting lots and therefore is not subdivided. The applicant in this instance has not placed all the 7(a) land in one of the proposed lots as is required by Clause 18(4)(a) but has subdivided it between two proposed lots. The application then does not comply with Clause 18(4)(a)(iv). In addition to the subdivision of the 7(a) portion, the subdivision of the

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

7(c2) portion of the lots containing the 7(a) land creates lots that do not meet the minimum lot size requirements of Clause 18(3).

Clause 18(4)(b) requires that if the 7(c2) portion of the land is to be subdivided into lots less than 2ha but more than 1 ha, a bonus lot contribution or dedication is required to be undertaken. The applicant in accordance with Clause 18(4)(b)(ii) has proposed a monetary contribution for the purchase or embellishment of land identified in the COSS.

In summary, the provisions of Clause 18 of IDO 122 the proposal results in the subdivision of Conservation 7(a) land which is not permitted and the adjoining 7 (c2) portion does not meet minimum lot size standards.

It is noted that the applicant has proposed the use of clause 39A of IDO 122 ('rubber boundary clause') which provides that development can be carried out on land to which this clause (being 7(a) zoned land) applies for any purpose which may be carried out in the in the zone or reservation adjoining the land (in this case 7(c2) land) subject to a number of physical and environmental requirements and that the land is within 50m of the 7(a) zone boundary.

In this instance clause 39A (2)(b) viii applies which prevents the use of the clause where its use will result in an adverse effect on the surrounding environment.

It has been identified through the assessment of the requested additional information that the impact upon the environment has not be adequately addressed. Therefore, the use of this clause to allow the proposed development will result an adverse effect on the surrounding environment, in particular the ecological characteristics of the land adjoining the site.

In this case the use of the clause will allow more intense development that will impact upon the ecological characteristics of the adjoining 7(c2) land hence Clause 39 cannot be used and the subdivision proposed cannot be supported.

Gosford Development Control Plan 2013

Clause 3.6 Subdivision of Rural and Non – Urban Land and in particular 3.6.4.2 Arrangement of Lots c – tree preservation provides;

The proposed plan of subdivision shall identify the vegetation on the site. Trees which are proposed to be removed shall also be identified on the plan of subdivision, with an explanation as to why approval is sought for their removal.

The amended plans do not identify all trees that are to be removed. This has been referred to in the comments provided by internal sections of Council later in this report.

Submissions

The application was notified from 13 December 2018 to 31 September 2018 in accordance with GDCP 2013. The exhibition was extended on the request of residents until 1 February 2019.

Sixty one (61) public submissions were received in relation to the application. Those issues associated with key issues have been addressed in the above report. The remaining issues pertaining to various concerns were addressed in the assessment of the application pursuant to the heads of consideration contained within section 4.15 of the *Environmental Planning and Assessment Act 1979*.

A summary of the submissions are detailed below:

Submission Comment: *The land has a high environmental value.*

Comment – The land’s high environmental value has been acknowledged by Council’s Ecologist and this is reflected in the draft Central Coast Local Environmental Plan which has proposed that the land be zoned E2 – Conservation.

Submission Comment: *The land is wholly naturally vegetated*

Comment – Except for sections of the land that is occupied by ponding and cleared for the purposes of easements the land is heavily vegetated.

Submission Comment: *The land should be left as is.*

Comment – The owner of the land is able to lodge a development application for the uses that are permitted with consent under the local planning instrument.

Submission Comment: *The land should be included in COSS.*

Comment – The applicant has acknowledged that the land is identified for acquisition for inclusion in COSS. The applicant though has not indicated that the owner is prepared to discuss the possible acquisition with Council.

Submission Comment: *The land has been identified as wildlife corridor.*

Comment – Council’s GIS mapping has identified the land as being part of a wildlife corridor.

Submission Comment: *There will be a loss of hollow bearing trees*

Comment – Council’s Ecologist has also acknowledged this outcome from the development

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

Submission Comment: *The APZs will result in the loss of significant vegetation.*

Comment – The RFS has required the creation of APZs that will result in extensive clearing of existing vegetation.

Internal Consultation

The following internal consultations have been undertaken:

Environment	Not Supported (see comment below)
Engineers	Not Supported (see comment below)
Trees	Not Supported (see comments below)
Water/Sewer	Supported, subject to conditions

External Consultation

The following external consultation has been undertaken

NSW Rural Fire Service	Supported, subject to conditions (see comment below)
------------------------	--

Tree Assessment Officer Comments

The following comments are made in relation to the proposed Development Application as a consideration of the likely impacts of the development on existing trees. The subject application has been considered from review of the Arboricultural Impact Assessment 18/12/20 and site inspections with Council Planning staff.

It was noted that the Arborist report nominates removal of all but a four (4) Palm trees from the APZ's for the three (3) future dwelling footprints. However, it's my understanding that tree removal could be reduced within APZ's to maintain Inner Protection Areas, resulting in retention of more existing canopy trees within the APZ's of each of the lots.

It's expected that trees within dwelling footprints and within a 10m radius from those footprints would be shown for removal, however better condition valued trees within the remainder of the APZ would be retained whilst still meeting the requirements of the IPA. The applicants Bushfire Consultant and Arborist should collaborate on determining which additional trees can remain and amended the Arboricultural Impact Assessment accordingly.

It's my understanding that Council's Engineer may require access design to address bushfire requirements that may further impact existing trees. The outcome of that design is to show any additional tree removal in an amended Arboricultural Impact Assessment.

There was confusion over some locations of tagged trees on site to plans within the Arboricultural Impact Assessment (particularly Appendix 1c). The Project Arborist must take

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

the opportunity to correct tree locations when amending the Arboricultural Impact Assessment.

The following information is required before further assessment:

Amend the Arboricultural Impact Assessment to reduce impacts on better condition valued trees within the APZ beyond 10m from the dwelling footprints, address trees impacted by required access design and correct anomalies between tagged tree locations and report.

Development Engineer's Comment

As discussed, please check to see if the bushfire turn areas per PBP 2019 have been included in the environmental assessments.

The access roads to building areas from Clarence Rd need to be cleared for approx. 6m wide to enable stormwater drainage and shoulders. A preliminary road design should be provided to show the full extent of clearing for the access roads.

The contours on the amended plan appear to be approx. 15m too high. If so plans need to be amended to reflect actual RLs

Ecologist's Comments

Documents Reviewed:

- Australian Environmental Surveys, "*Large Lot Residential Subdivision Clarence Road Springfield Supplementary Report*", dated October 2020 CM D14374149.
- Advanced Treescape Consulting "*Arboricultural Impact Assessment at 35-45 Clarence Road, Springfield*", dated 18/12/2020 CM D14418968
- Amended subdivision plan CM D14374197.
- Travers Bushfire and Ecology "*Bushfire Protection Assessment*", dated 5/11/2020. CM D14373969.

This review is to be read in conjunction with:

- Previous Ecology referral is attached for reference.

Site inspection in relation to the amended plans and reports was undertaken on 4 March 2021 with Council's Tree Officer and Engineer. It was noted that the access location was not marked on site, and some of the tree tags (particularly in lot 4) did not appear to accurately relate to the locations in the map provided in the Arborist assessment. Council's Ecologist did observe the *Rhodamnia* plants within the area marked off with flagging tape.

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The previous ecology referral for this DA (26 September 2019) stated that the application could not be supported. The applicant has subsequently provided further information and some design changes in relation to tree, ecology and bushfire matters. However, the information submitted does not fully address the issues previously raised by Council (itemised below). There are also a number of inconsistencies between the various plans (again itemised below), which does not allow an accurate and complete assessment of the impacts.

Note: Revised RFS GTAs are outstanding and may have further implications for vegetation clearing. The previous GTAs issued 21 March 2019 included a requirement that *"At the issue of a subdivision certificate, and in perpetuity, the entirety of proposed Lots 1 and 4 and the building envelopes on proposed Lots 2 and 3 shall be managed as an inner protection area (IPA)"*. This would require extensive clearing in Lots 1 and 4, including likely clearing of Critically Endangered *Rhodamnia*. If the RFS does not accept the smaller APZs now proposed, tree and vegetation clearing will be increased.

Information that has been provided includes:

- The location and size of the area containing the Critically Endangered species *Rhodamnia rubescens* has now been included in the plans. The location and extent of the *Rhodamnia* was not previously provided to Council. The proposed access passes close to the edge of *Rhodamnia* and will likely require clearing up to the edge of the population. These trees are rainforest plants and are sensitive to changed light conditions.
- Building envelopes and APZs have now been provided for all Lots.

An Arborist report has now been provided. However, this report does not include:

- Tree removal required to construct the access(es), including earthworks required to construct. The access is also not pegged out on site. It is my understanding from the site inspection that Council's Engineer may require access design to address bushfire requirements, including a turning head. This may impact additional existing trees. These issues were raised in the previous ecology referral as follows *"No detailed plans have been provided showing tree and vegetation removal required to construct vehicle access handle/driveway and drainage, services and turning area required by RFS"*.
- It was discussed at the meeting at Council in December 2019 that a Tree Retention Plan would be provided to demonstrate that many of the significant native trees on the site could in fact be retained in APZs. The Arborist report instead details that of the 157 trees surveyed, all these trees are recommended for removal with the exception of 4 Palm trees. This fails to demonstrate that four dwellings could be constructed on the site with minimal visual or environmental impact.

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

With regard to the subdivision plan provided:

- The subdivision plan shows a larger APZ than that shown in the amended bushfire assessment for Lot 1. This would need to be corrected.
- The APZs for two of the lots are still within the Rainforest buffers required by the Gosford Rainforest Policy and clearing of native trees and vegetation is proposed inside that buffer on both lots.

The supplementary ecology report (by Australian Environmental Surveys) has been written with no reference to the Arborist report. There are conflicting and incorrect statements in the ecological report including:

- The issue of removal of hollow bearing trees that provide threatened fauna habitat was raised in the previous ecology referral. The supplementary ecological report states that *"no trees with a hollow will be removed from within the proposed building envelopes"* p9, however cross referencing Figure 5 "hollow bearing trees" of the ecology report with the Arborist report (Appendix 1), shows that all hollow bearing trees in the APZs are in fact recommended for removal. This amounts to 3 hollow bearing trees in proposed Lot 1, one in proposed Lot 2, one in proposed Lot 3 and four in proposed Lot 4.
- The ecological report states that *"Trees requiring removal from within the APZ is indeterminant at this stage but as many as possible will be retained"* p12. However, the Arborist has recommended removal of all surveyed trees in the APZs (Inner and Outer) with the exception of four palm trees.
- Gosford Council's Rainforest Policy (now adopted as Central Coast wide policy) requires a 50 metre wide development exclusion zone. The ecological report states that *"The building envelope and associated APZ requirements have been also re-positioned to maintain 50m from the mapped rainforest as required by the Rainforest Policy"* p9. However, the subdivision plan clearly shows that the APZs for Lot 2 and Lot 3 are still within the required 50m buffer (green dashed line). The Arborist report (appendix 1b and 1c) also show the rainforest buffer as a purple dotted line and show removal of all surveyed trees within the buffer.

Council's ecologist would not support the removal of the dam, as suggested as an option in the recommendations of the supplementary ecology report. It is part of a natural waterway and provides a variety of habitats for local fauna, and it is valued by the local community.

It is noted that no Vegetation Management Plan has been provided to detail what actions would be undertaken to ensure in perpetuity conservation management of retained lands and to prevent indirect impacts on adjoining Council bushland. It is preferable that this document be provided prior to determination to provide certainty for ecological outcomes.

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

Summary:

Based on the information provided, Council's Ecologist still cannot support the application.

The inconsistencies between the supplementary Ecological Report and Arborist report, and the errors in the ecological report in relation to the clearing required within the required 50m rainforest buffer, do not allow an accurate assessment of the impacts to be made.

The scale of removal of vegetation and significant trees on steep slopes is inconsistent with the current and proposed zoning. The proposal still represents an unacceptable level of ecological impact in terms of the amount and location of vegetation removal. There has been insufficient attempt made to reduce the size of APZs and to retain significant trees within the APZs. Importantly, of the 157 trees surveyed in the building footprints and APZs, all trees are recommended for removal by the Arborist with the exception of 4 Palm trees. There will also be additional tree removal to construct the accesses that has not been quantified and assessed in the Arborist assessment or Ecological report.

The application could only proceed through the assessment process if the following amendments are made to the proposal and the supporting documentation, and if the changes made resulted in a decreased environmental impact:

- Move access south at least 10 metres to provide a vegetated buffer to the Rhodamnia population.
- Show the turning heads required by RFS (and the Bushfire Assessment) on the subdivision plans and assess the impact on trees in the amended Arboricultural Impact Assessment report.
- Move the building envelope and corresponding APZ on Lot 2 further east to remove the need for clearing in the rainforest buffer area. The lot boundary would also need to be adjusted accordingly.
- Reduce the APZ for Lot 3 (and possibly Lot 4) by increasing the BAL level to remove the need for clearing in the rainforest buffer area.
- All plans need to be consistent. The current subdivision plan shows a larger APZ for Lots 1 and 2 than that shown in all the reports.
- Arborist to nominate more mature trees suitable for retention within the APZs but outside the 10m curtilage to the building envelopes, in consultation with the bushfire consultant. Ecologist to provide advice on hollow bearing trees that need to be retained.
- The information requested by Councils Tree Assessment Officer is also required to inform the ecological impact assessment namely:

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"Amend the Arboricultural Impact Assessment to reduce impacts on better condition valued trees within the APZ beyond 10m from the dwelling footprints, address trees impacted by required access design and correct anomalies between tagged tree locations and report"

- Ecologist to address proposed loss of habitat trees, any clearing within rainforest buffer and all tree removal in an amended ecological assessment report that is consistent with all other reports and plans.
- Clarification of what is proposed for the dam, including that area of the dam that currently extends close to the building envelope for Lot 2. Removal of the dam as suggested by the ecologist is not supported.

RFS acceptance of the smaller APZs in the form of revised GTAs would also be required.

Rural Fire Service Comment

The comment from the RFS was based on additional information provided in response to the initial RFS comment. The RFS did not object to the proposal but required conditions be applied to any consent. No comment from the RFS has been sort at this stage to the current additional information that has been the subject of comment from Council Officers and the recommendation for refusal of the application.

Climate Change

The potential impacts of climate change on the proposed development have been considered by Council as part of the assessment of the application.

This assessment has included consideration of such matters as potential rise in sea level; potential for more intense and/or frequent extreme weather conditions including storm events, bushfires, drought, flood and coastal erosion; as well as how the proposed development may cope, combat, withstand these potential impacts. The proposed development is considered satisfactory in relation to climate change.

Ecologically Sustainable Principles

The proposal has been assessed having regard to ecologically sustainable development principles and is not considered to be consistent with the principles.

The loss of vegetation and is likely to have any significant adverse impacts on the environment and will decrease environmental quality for future generations. The proposal does result in the disturbance of endangered flora or fauna habitats and is likely to affect fluvial environments.

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As detailed under the Act, Ecologically Sustainable Development can be addressed through the implementation of the following principles:

- a) *the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

Comment: This has been identified as a major issue in relation to this development.

- b) *inter-generational equity, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations;*

Comment: The loss of vegetation will result in a loss for future generations.

- c) *conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration;*

Comment: The issues relating to this principle has been addressed in the Council's Ecologist's comments as provided in this report.

- d) *improved valuation, pricing and incentive mechanisms, namely, that environmental factors should be included in the valuation of assets and services.*

Comment: The issues relating to this principle has been addressed in the Council's Ecologist's comments as provided in this report.

Planning Agreements

The proposed development is not subject to a planning agreement / draft planning agreement.

Development Contribution Plan

The site is not subject to the provisions of any section 7.11 development contribution plan. Section 7.12 would be applicable if the proposal was recommended for approval. A cost of works for the subdivision would be required to be submitted to calculate the cost of the contribution.

Likely Impacts of the Development

Section 4.15 (1)(b) of the EP&A Act requires consideration of the likely impacts of the development including environmental impacts on both the natural and built environments,

3.1 DA 55715/2018 - 35-45 Clarence Road, Springfield - Four (4) lot subdivision (contd)

The proposed development in its current form is considered to have adverse impacts on the natural environment as discussed in this report

c) Economic Impacts

The proposed development will have beneficial economic impacts. The development facilitates economic development that will lead to more local employment opportunities on the Central Coast and reduce the percentage of employed persons who travel outside the region each day for work.

d) Social Impacts

The proposed development will have negligible social impacts as the proposal is only a subdivision.

Suitability of the Site for the Development

The site is considered not to be suitable for the proposed intensity of development as follows:

- The site is zoned Conservation 7(a)/Scenic Protection 7(c2) under IDO 122. The proposed development is not permissible under the CI 18 of IDO 122
- There are environmental impacts which would prevent development of the site in the manner proposed

The Public Interest

The approval of the application is considered not to be in the public interest as follows:

- The proposal will generate few social and economic benefits for the community by providing additional employment opportunities and services.
- The proposal is consistent with the relevant clauses of the applicable environmental planning framework, including IDO 122.
- The proposal results in any unreasonable environmental impacts

Other Matters for Consideration:

Section 7.12 Contributions (formerly Sections 94 and 94A Contributions) apply to the development application however as the application is recommended for a refusal, it is not required to be calculated at this time.

Water and Sewer Contributions
N/A

Political Donations

During assessment of the application there were no political donations were declared by the applicant, applicant's consultant, owner, objectors and/or residents.

Conclusion:

Council in undertaking the assessment of this development application has afforded the applicant opportunities to provide additional information to support the application and make amendments based on comments received from officers of Council.

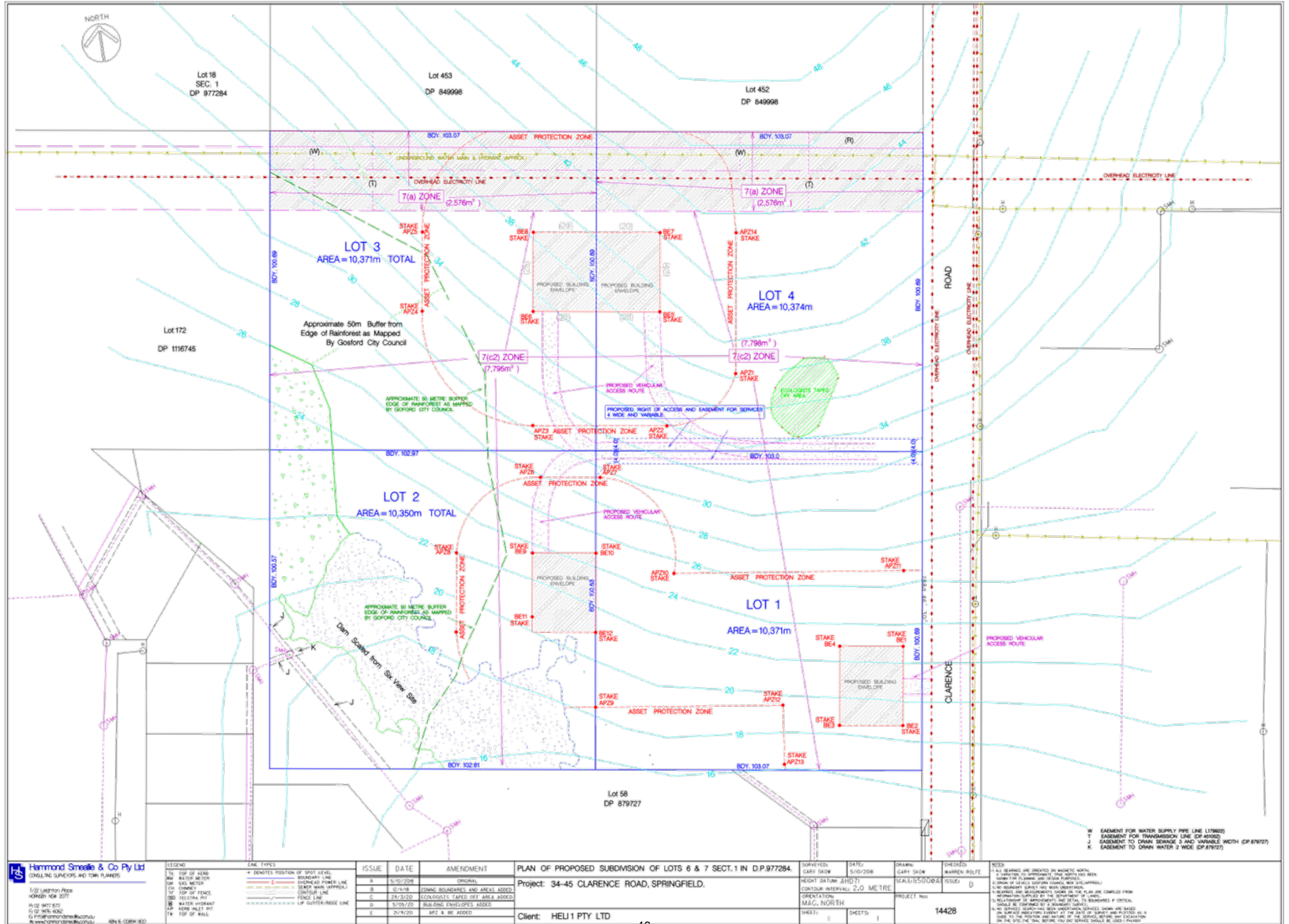
The latest amendments do not address in particular the ecological issues raised by Council's Ecologist and in addition the provisions of IDO 122 cannot be met with the subdivision as it is proposed. It is considered that the development should be determined on the basis of the latest information submitted. There is opportunities for subdivision on this site but not in the current form proposed however this will need to be assessed with the required ecological information, engineering implications and bushfire impacts.

The applicant has the opportunity to consider requesting a review of the determination or to submit a new application that is reflective of the sensitive ecological characteristics of the land and the statutory provisions that apply through the current planning instrument.

This application has been assessed under the heads of consideration of section 4.15 of the *Environmental Planning & Assessment Act 1979* and all relevant instruments and policies. Based on the assessment outlined earlier in this report, it is considered that the application be **refused** pursuant to section 4.16(1)(b) of the *Environmental Planning and Assessment Act 1979*, for the reasons outlined in this report.

Attachments

- | | | |
|---|---|--------------|
| 1 | DA 55715 - 35 Clarence Rd Springfield - Amended Subdivision Plan | D14374197 |
| 2 | DA 55715 - 35 Clarence Rd Springfield - Supplementary Environmental Report | D14374149 |
| 3 | DA 5517 - 35 Clarence Rd Springfield - Amended Bushfire Protection Assessment | D14373969 |
| 4 | Memo Ecology Comments Not supported DA55715 Clarence Road Springfield | ECMD25283280 |



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SYMBOL	DESCRIPTION
+	POSITION OF SPOT LEVEL
—	BOUNDARY LINE
—	OVERHEAD POWER LINE
—	SEWER MAIN (APPROX)
—	CONTOUR LINE
—	FENCE LINE
—	LIP GUTTER/RIDGE LINE

ISSUE	DATE	AMENDMENT
A	5/10/2018	ORIGINAL
B	02/11/18	ZONING BOUNDARIES AND AREAS ADDED
C	24/3/20	ECOLOGISTS TAPED OFF AREAS ADDED
D	5/09/20	BUILDING ENVELOPES ADDED
E	2/11/20	APZ & BE ADDED

PLAN OF PROPOSED SUBDIVISION OF LOTS 6 & 7 SECT.1 IN D.P.977284.
 Project: 34-45 CLARENCE ROAD, SPRINGFIELD.
 Client: HELU 1 PTY LTD

SURVEYED: GARY SKOW
 DATE: 5/10/2018
 HEIGHT DATUM: AHD21
 CONTOUR INTERVAL: 2.0 METRE
 ORIENTATION: MAG. NORTH
 SHEET: 11
 SHEETS: 1

DRAWN: GARY SKOW
 CHECKED: WARREN ROLFE
 SCALE: 1:5000
 PROJECT No: 14428

NOTES:
 1. ALL BEARINGS AND DISTANCES ARE ON MAGNETIC NORTH.
 2. TYPED AND PRINTED INFORMATION HAS BEEN CHECKED FOR PLANNING AND DESIGN PURPOSES.
 3. ORDER OF SURVEY: GOSFORD CITY COUNCIL (M.S. 1/1/1997/1)
 4. NO BOUNDARY SURVEY HAS BEEN UNDERTAKEN.
 5. RELIANCE ON MEASUREMENTS SHOWN ON THIS PLAN ARE COMPILED FROM INFORMATION SUPPLIED BY THE DEPARTMENT OF LANDS.
 6. RELIANCE ON MEASUREMENTS AND DATA TO BOUNDARIES OF OTHERS SHOULD BE CONFIRMED BY A BOUNDARY SURVEY.
 7. NO SERVICE SEARCH HAS BEEN UNDERTAKEN. SERVICES SHOWN ARE BASED ON SURFACE INDICATIONS ONLY AT THE DATE OF SURVEY AND PLOTTED AS A GUIDE TO THE POSITION AND NATURE OF THE SERVICES. BEFORE ANY EXCAVATION ON THE SITE, THE 'DIAL' BEFORE YOU DIG SERVICE SHOULD BE USED. PLEASE

Australian Environmental Surveys



Large Lot Residential Subdivision Clarence Road Springfield Supplementary Report



Lots 6 & 7 Clarence Road SPRINGFIELD NSW

Lots 6 & 7 DP// 977284 Clarence Road Springfield

Prepared for: Australis Properties

October 2020 Version: 1.2

Large Lot Residential Subdivision Clarence Road Springfield Supplementary Report

PROJECT NUMBER	2020-9-10			
PROJECT NAME	Large Lot Residential Subdivision Clarence Road Springfield Supplementary Report			
PROJECT ADDRESS	Lots 6 & 7 Clarence Road SPRINGFIELD NSW			
PREPARED FOR	Australis Properties			
AUTHOR/S	Ross Wellington			
REVIEW	Technical	QA	Version	Date to client
	Lorelle Fitzpatrick		1.2	26 November 2020
ACKNOWLEDGEMENTS	Shane McKinnon, Lorelle Fitzpatrick, Steve Slade			

This report should be cited as: 'AES (2020) Large Lot Residential Subdivision Clarence Road Springfield Supplementary Report– Lots 6 & 7 Clarence Road SPRINGFIELD NSW. Prepared for Australis Properties.'

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Glossary and abbreviations

Acronym	Description
APZ	Asset Protection Zone
CCC	Central Coast Council
COSS	Coastal Open Space System
DEC	Department of Environment and Conservation
DECC	Department of Environment and Climate Change
DP	Deposited Plan
EP&A Act	Environmental Planning and Assessment Act 1979
GCC	Gosford City Council
GIS	Geographic Information System
GPS	Geographic Positioning System
KTP	Key Threatening Process
LEP	Local Environment Plan
RBG	Royal Botanic Gardens
RFS	Rural Fire Service
SEPP	State Environmental Planning Policy
VMP	Vegetation Management Plan

1 Background and Purpose

1.1 Background

A development application has been prepared and submitted to Central Coast Council for a large Lot residential subdivision on Lots 6 and 7 DP // 977284; 35 and 45 Clarence Road Springfield, NSW – hereafter the subject land. The subject land has a prevailing deferred zone under the current Gosford LEP 2012 and the 7c2 Zone applies. Permissibility under the existing Zone includes allowable large lot subdivision subject to Council approval. Flora and fauna assessment, among other matters, were undertaken in relation to the original proposal (Keystone Ecological, 2018).

1.2 Purpose

It is understood that the Central Coast Council have requested further information, assessment and justification regarding the existing proposal and has requested further information in relation to the submitted DA and its ongoing assessment.

These matters have been sought to assist Council personnel tasked with evaluating and assessing the proposal.

These requirements include:

- a request by Central Coast Council's (CCC) Tree Preservation Officer for the provision of a more detailed overview of impact to trees, with clear plans showing building locations, APZ, access and services. Such documentation is requested to provide a clearer indication of the extent of tree removal, tree retention and other possible vegetation treatments necessary. This was to include the location of services and logically required indicated access ways to the proposed building envelopes from the Clarence Road.

Further, a numbered list of items requiring further clarity and evidence of consideration in the planning of the proposal on the subject land.

And hence also included:

1. Demonstrated reduction in vegetation removal – based on identified building envelopes, APZ and access ways be more specific as to the amount of vegetation clearing required. This will enable a more readily reconciled proposal when evaluating the ecological assessment report and determining whether the re-positioning of areas requiring clearing and thus the purposeful relocation of building envelopes that also maintain “corridor connectivity”.
2. Any tree removal, and hence retention plan, for those now identified building envelopes, APZ's and access ways.
3. Hollow bearing trees need identification and provide a more robust argument for the removal of any hollow bearing trees.
4. Commentary on how the adjusted plans now avoid removal of the population of Critically Endangered tree species *Rhodamnia rubescens* present on site. An evaluation of the “state” of this population needs to be provided.
5. Council's Rainforest Policy and any required clearing.



6. Issue of preparing a Vegetation Management Plan that provides for active, in perpetuity conservation management of retained lands and to prevent indirect impacts on adjoining Council bushland.
7. Previous comments of Council included "Section 5A of the EP&A Act requires that Assessments of Significance are prepared in accordance with the DECC (2007) "Threatened species assessment guidelines - The assessment of significance". The Assessments of Significance supplied do not meet the requirements of the DEC Guidelines. This includes a lack of definition or regard to the local occurrence of the endangered ecological communities or local population species tested, and an underestimate of the clearing required when compared to the RFS General Terms of Approval". Thus, a need to address the particulars of this in our supplementary response.
8. Clause 9(d) and (e) of SEPP 19 (Urban Bushland)
 - the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and
 - any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.
 - The applicant is to address the avoid, mitigate and offset principles.

This report documents the additional information, assessment details and approaches/provisions requested by Central Coast Council (CCC).

2 Method

2.1 Approach

An evaluation of the current situation was undertaken. This included a review of previous documentation, plans and amended plans as well as a desk top review of the subject land and its locality.

Previous concept plans, assessment documents, modifications to these and consultation meetings with the proponent Shane McKinnon (Australis Properties) and the planner Lorelle Fitzpatrick (A-Consult).

2.1.1 Review

The following documents (among others see references) were read and reviewed.

- Flora and Fauna Assessment Report
- Concept plans depicting the initial and subsequent lot layouts considered and proposed
- Amended Lot configurations, building envelopes, access driveways and conceptual Asset Protection Zones associated with the amended proposal.
- Guideline and policy documents including: CCC Rainforest Policy; Threatened Species Assessment Guidelines (DECC 2007) and relevant Sections of the Urban Bushland SEPP 19 statutory planning instrument.

A desktop Geographic Information appraisal was also undertaken using *Six Maps* [<https://maps.six.nsw.gov.au/>] and *ArcMap 10.7* GIS software along with various spatial data sets either held or else available through the NSW Governments online Natural Resource and Environmental Data Portal repository and spatial data services site – *SEED* [<https://www.seed.nsw.gov.au/>]. Several site maps were thus generated and exported as a Georeferenced Image for use as a backdrop site positioning for GPS assisted site inspection and evaluation.

2.1.2 Site Inspection

A site inspection was undertaken on [dates] to obtain firsthand site details. This included using *Avenza Map* GPS software [<https://www.avenza.com/>] on a large screen *iPhone* smart phone to capture site traverses undertaken during the sites evaluation and including geopositioned reference photos of site details. A *Garmin 64S* was also used simultaneously to capture waypoints and backup traverses across the site.

Inspection involved a number of activities including:

- Evaluation of building envelopes – previous and current positioning
- Access driveways – previous and current
- APZ implications previous and current
- Tree position across the site within these potential affectations
- Tree type and dimension identified positioned by GPS
- Trees with hollows identified via GPS



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- Evaluation of the position and condition of the previously identified patch of Brush Turpentine *Rhodamnia rubescens*, a threatened species that is known as a colonising ecotonal species across its range and currently known to be seriously impacted by a problematic and currently uncontrollable Key Threatening Process (KTP) Myrtle Rust that ubiquitously pervades the environment.

2.1.3 Evaluation

After undertaking the review, the desktop evaluation and the site inspection including additional data gathering that was requested, an evaluation was undertaken. This was then followed by a formulated response to provide CCC with the additional information requested to facilitate Council processing of the Development Application before it.

This information is provided in the form of a series of responses in the context of the framework of the request for this information by Council to assist/facilitate its DA assessment process as well as a visual representation via a series of map figures depicting some of the information requested.



3 Results

The results of this supplementary assessment is provided within the framework of the request by CCC. This additional assessment must be considered by reference to Councils request [details], the existing Flora and Fauna Assessment Report [reference] and the revised Bushfire Report (Travers Bushfire and Ecology, 2020) depicting revised APZ requirements for the amended layout.

3.1 Contextual Response

To facilitate Central Coast Council in its Development Application considerations the following response has been framed in accordance with its request for further information.

3.1.1 Tree Preservation Consideration

A request by Central Coast Council's (CCC) Tree Preservation Officer requested an overview of impact to trees, with plans showing building locations, conceptual APZ, access ways and any impacting services. Such documentation was requested to provide a clearer indication of the extent of tree removal and conversely, tree retention. It was stipulated to include the location of any services and driveways to the building envelopes from the Clarence Road frontage for a more complete evaluation of possible impact on trees.

3.1.2 Development Assessment Consideration

- 1 Reduction in vegetation removal – based on identified building envelopes, APZ and access ways be more specific as to the amount of vegetation clearing required. This enables a more readily reconciled proposal when evaluating the ecological assessment report and determining whether the re-positioning of the areas requiring clearing and thus the purposeful relocation of building envelopes and maintenance of potential “corridor connectivity”.

Efforts to avoid and minimise vegetation impacts have been made by way of undertaking a series of repositioning of the proposed permissible building envelopes and their associated APZ attachments so as to minimise tree loss and any required vegetation treatment impacts due to APZs. Similarly, the positioning of access ways to each building envelope were also varied to achieve the same minimised vegetation impacts. This conforms with the request to demonstrate considerations having been taken for a reduction and minimisation in tree loss potential otherwise. This is consistent with conservation planning principles of avoid and minimise. (see Figure 1).

- 2 The Tree Removal, and hence retention plan, for the now identified building envelopes, APZ's and access driveways.

This is now provided by way of Map Figures and a tree details Table of implicated trees (see Figures 1 and Table 1.)

- 3 Hollow bearing trees implicated need to have provided a more robust argument regarding the removal versus retention of any hollow bearing trees.



An evaluation of trees with hollows that may be lost has been undertaken and demonstrates that no trees with a hollow will be removed from within the proposed building envelopes. In fact very few trees with hollows were evident across the subject land and those with hollows were identified as being sparsely distributed and all of these trees have been avoided in the latest layout concept.

- 4 A commentary provided on how the adjusted plans now avoid removal of the population of Critically Endangered tree species *Rhodamnia rubescens* present on site. An evaluation of the "state" of this population needs to be provided.

The locations of identifiable specimens of *Rhodamnia rubescens* have previously been plotted and the majority of living specimens are concentrated within an area that is outside both the building envelopes and access driveways proposed as well as the associated APZ areas. The location of this identified patch of *Rhodamnia* is depicted in Figure 2.

- 5 Council's Rainforest Policy and any clearing needs to be taken into account.

Council's Rainforest Policy (GCC 2017; CCC 2020) has been considered and the proposal has been formulated to avoid any direct impact on the identified and mapped Rainforest on the western component of the subject land. The building envelope and associated APZ requirements have been also re-positioned to maintain 50m from the mapped rainforest as required by the Rainforest Policy.

- 6 Proposed preparation of a Vegetation Management Plan providing for an active, in perpetuity conservation management of the vegetation retained within the subject land and also providing considerations to prevent any negative indirect impacts on the adjoining Council bushland.

A Vegetation Management Plan (VMP) will be prepared as a condition of approval that addresses the management of the retained vegetation of the site and including the *Rhodamnia* population, the APZs and the remnant patch of rainforest on the western part of the subject land. This VMP will be developed in accordance with Council's VMP Guidelines for a duration to be determined and with a mechanism to ensure implementation. It is envisaged that consultation with the responsible officer of DPIE and the RBG would be sought to gain best practice advice during the VMP preparation.

- 7 Previous comments of Council included "Section 5A of the EP&A Act requires that Assessments of Significance (AOS) are prepared in accordance with the DEC (sic) (2007) "Threatened species assessment guidelines - The assessment of significance". The Assessments of Significance supplied are currently considered as not meeting the requirements of the DEC (sic) Guidelines. This includes a lack of definition or regard to the local occurrence of the endangered ecological communities or local population of species tested, and an underestimate of the clearing required when compared to the RFS General Terms of Approval". We need to address the particulars of this in our reply.

The nonspecific comments provided by CCC have provide little guidance as to the entities or aspects of any particular s5A Assessment and its adequacy. In review, those species s5A Assessments that were considered adequate and in accord with DECC (2007) stand and are as identified within Keystone Ecological (2018). Those entities with an actual



presence on the subject land have had their s5A Assessments updated and embellished to satisfy CCC comments. These revised s5A are provided as Appendix A.

8 Clause 9 (d) and (e) of SEPP 19 (Urban Bushland) is required to be considered

- d. *the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- e. *any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

The subject land adjoins the Gosford Coastal Open Space System (COSS) area comprising the 'Rumbalara Reserve' that is to the north of the subject land. The northern boundary of the subject land is though bordered by a cleared and maintained powerline easement. Consequently, the subject land is already partially disconnected in the sense of a continuous treed connective link. Nevertheless, the current proposal proposes to retain and manage the retained vegetation within the site. Most particularly the area of rainforest on the western side of the subject land and its 'filtered' interface with the COSS lands. This retained vegetation will continue to buffer the COSS from the surrounding residential subdivision as well as from the low-density development proposed here. Actual or perceived impacts to the COSS from future permissible land use development as here proposed is trivial to none and certainly less impact than the cleared powerline easement already in place. Further, the proposal will also retain and manage, via a VMP, other areas of retained vegetation on-site that will ensure connectivity within and through the subject land to where it interfaces with the adjoining COSS land.

The current proposal will not impact on the adjoining lands by way of weed introgression as this will be managed by the required VMP, to be developed, nor by way of soil erosion and sedimentation as this would be managed via the details of a construction environmental management plan, also to be developed. The current reconfigured proposal has been formulated via the re-positioning of building envelopes and thus maintains a maximised vegetated area for connectivity. (See Figure 3).

9 The applicant is to address the avoid, mitigate and offset principles.

The proposal has been formulated and modified to minimise impacts on the sites vegetation and maximises avoidance hence the proposal applies standard conservation planning principles to the otherwise permissibility of a subdivision of a ca 4.2 Ha allotment of 7c2 land into four lots with four dwelling entitlements/defined envelopes.

The building envelope positioning, access driveways design and any infrastructure have been adjusted such that their position and any associated clearing or treatment requirements, to meet APZ provisions, are minimised. This has meant the re-positioning of building envelopes with one adjacent to the Clarence Road frontage, two together near the already cleared northern powerline easement and another in the proximity of the dam in the south eastern portion of the subject land. These repositioning's resulted in a reduction in tree removal within building envelopes and the areas implicated by required APZ treatments associated with these building envelopes. In the positioning selected already cleared areas became part of APZ areas minimising possible impacts of required vegetation treatments of these areas, ie Clarence Road frontage, cleared powerline easement and the former agricultural dam on-site.



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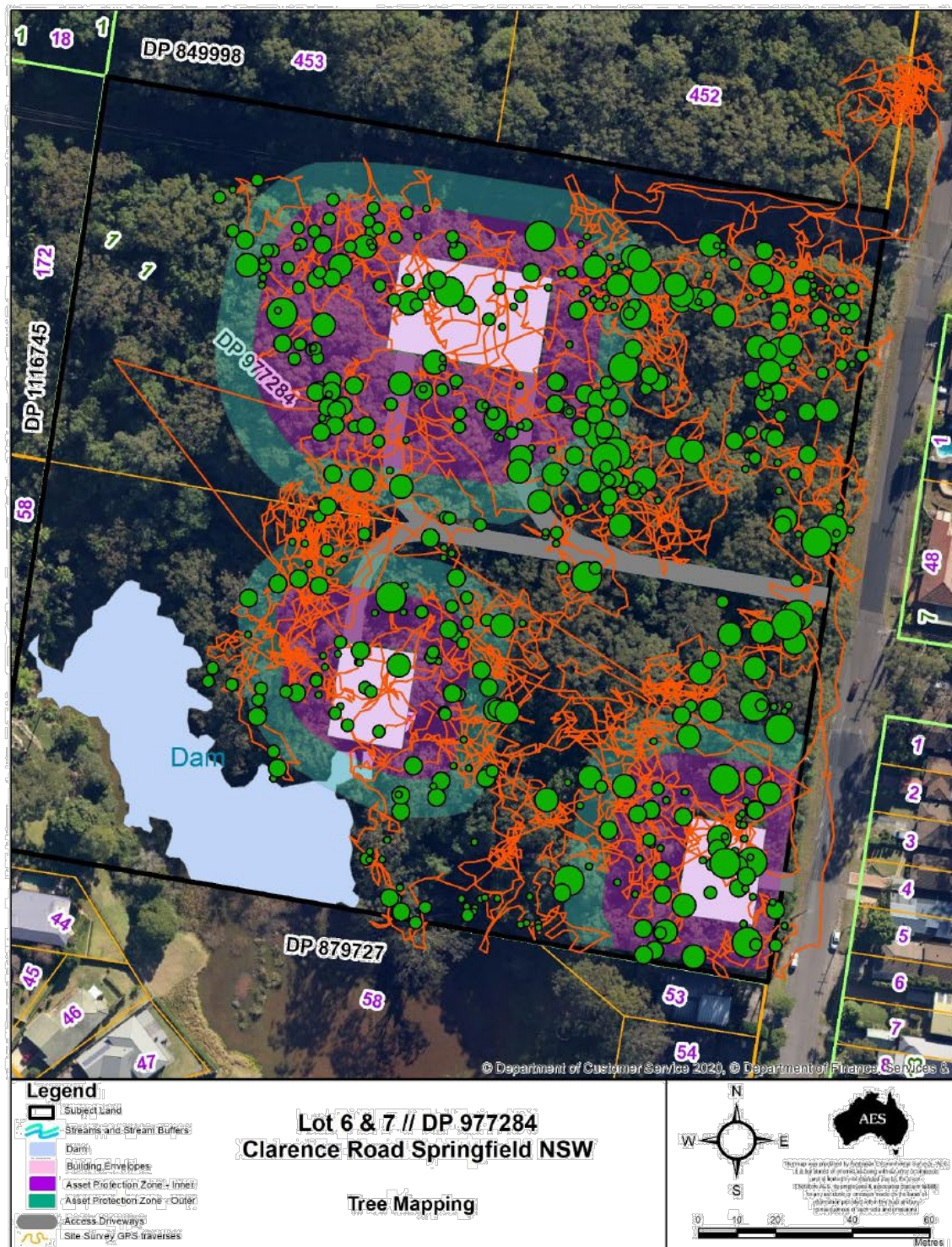


Figure 1: Tree Distribution



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Table 1: Tree Table

Species	Common Name	Size DBH (cm)	Tree Hollows	BE
Blackbutt	<i>Eucalyptus pilularis</i>	50-160	0	6
Blue Gum	<i>Eucalyptus saligna</i>	38-70	0	3
Cabbage Palm	<i>Livistona australis</i>	25-35	0	4
Coachwood	<i>Ceratopetalum apetalum</i>	20-23	0	3
Forest Oak	<i>Allocasuarina torulosa</i>	20	0	1
Grey Myrtle	<i>Backhousia myrtifolia</i>	18	0	1
Jackwood	<i>Cryptocarya glaucescens</i>	30	0	1
Maidens Blush	<i>Sloanea australis</i>	25	0	1
Sweet Pittosporum	<i>Pittosporum undulatum</i>	20-25	0	3
Rough-barked Apple	<i>Angophora floribunda</i>	35-45	0	2
Turpentine	<i>Syncarpia glomulifera</i>	18-100	0	21
Tallowood	<i>Eucalyptus microcorys</i>	28-60	0	3
TOTALS			0	49

A total of 49 trees will be required to be removed from within the building envelopes. Trees requiring removal from within the APZ is indeterminant at this stage but as many as possible will be retained. No trees earmarked for removal have been identified as having a hollow.

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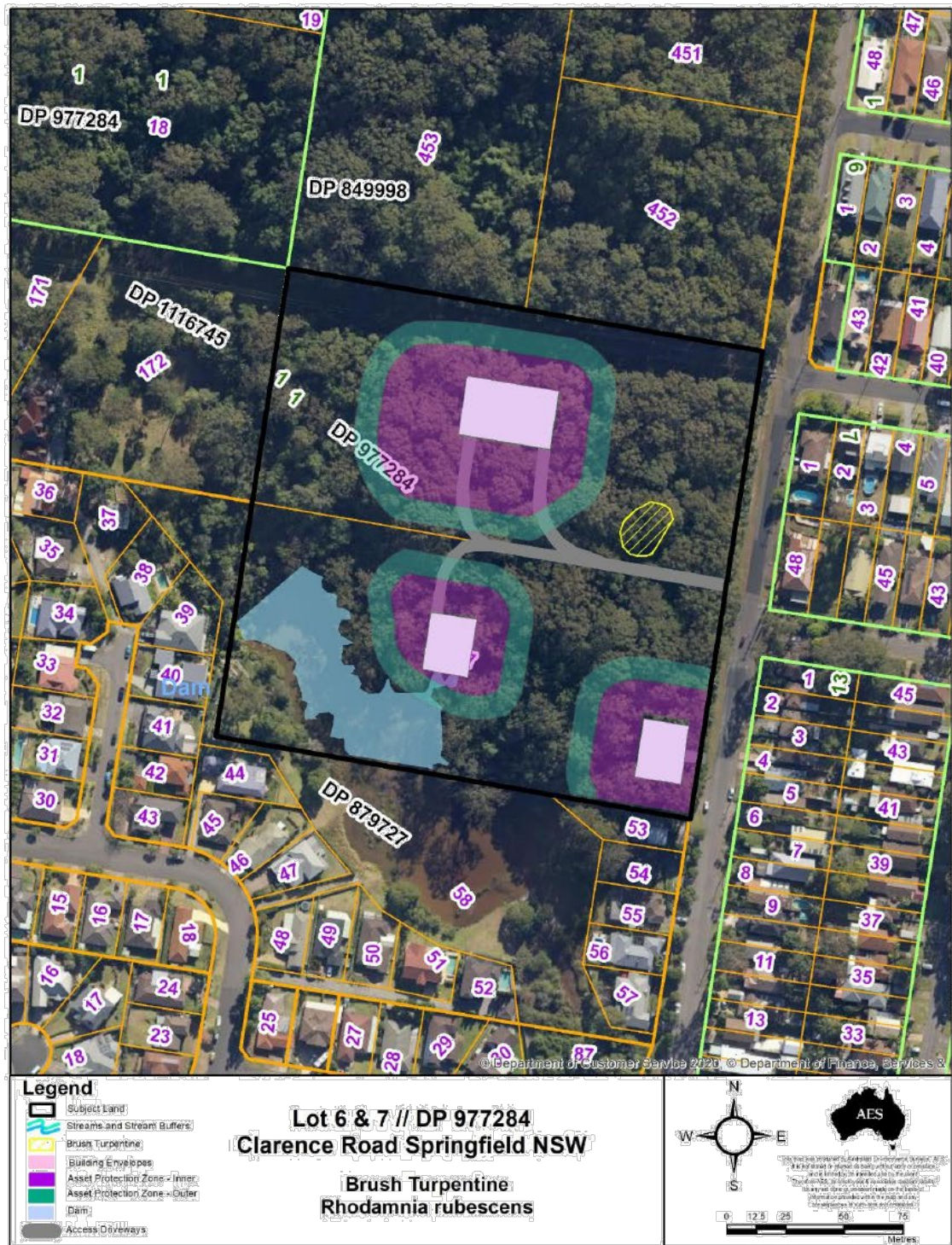


Figure 2: Rhodamnia Protection Zone



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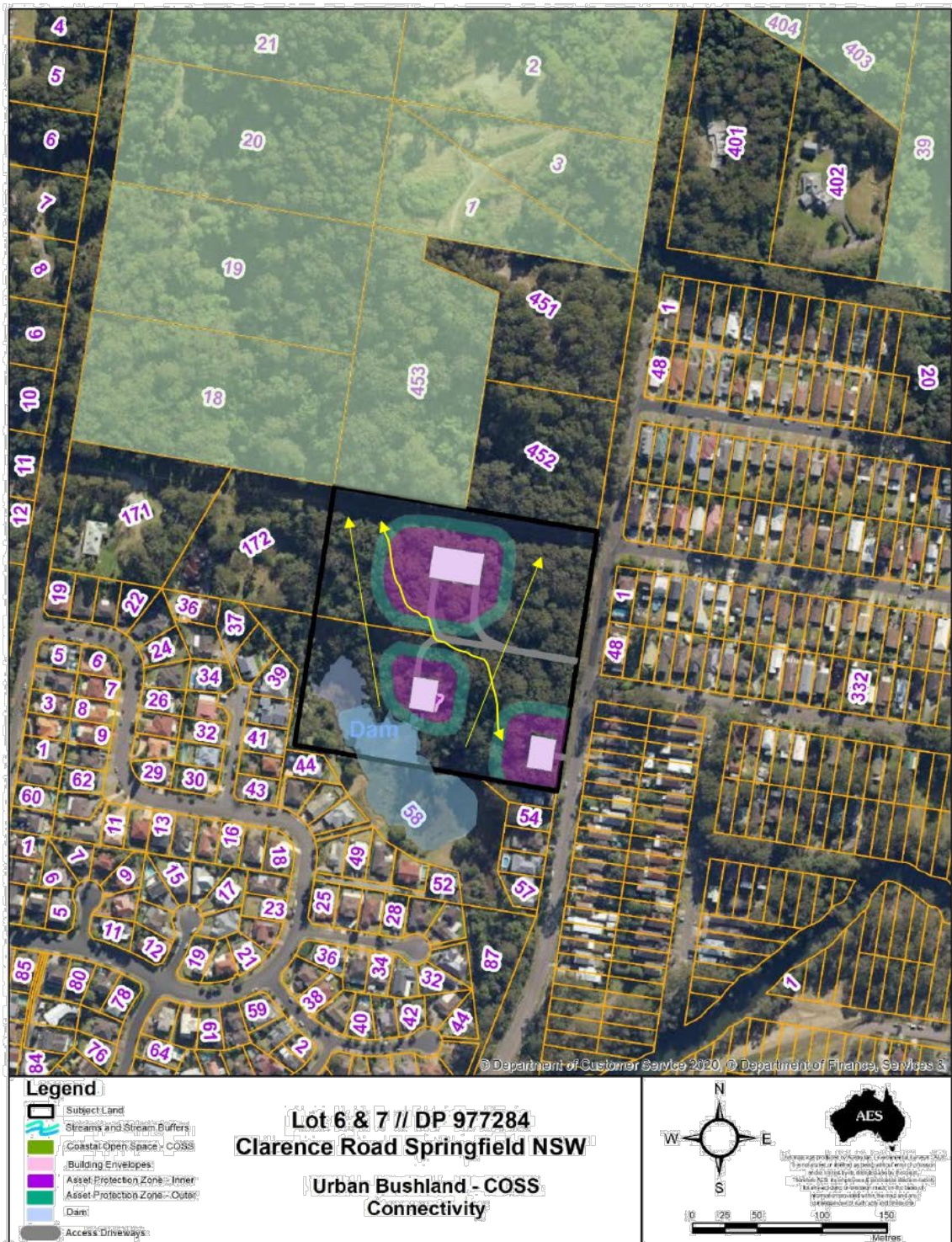


Figure 3: Coastal Open Space System (Urban Bushland) Connectivity



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Figure 4: Threatened Species



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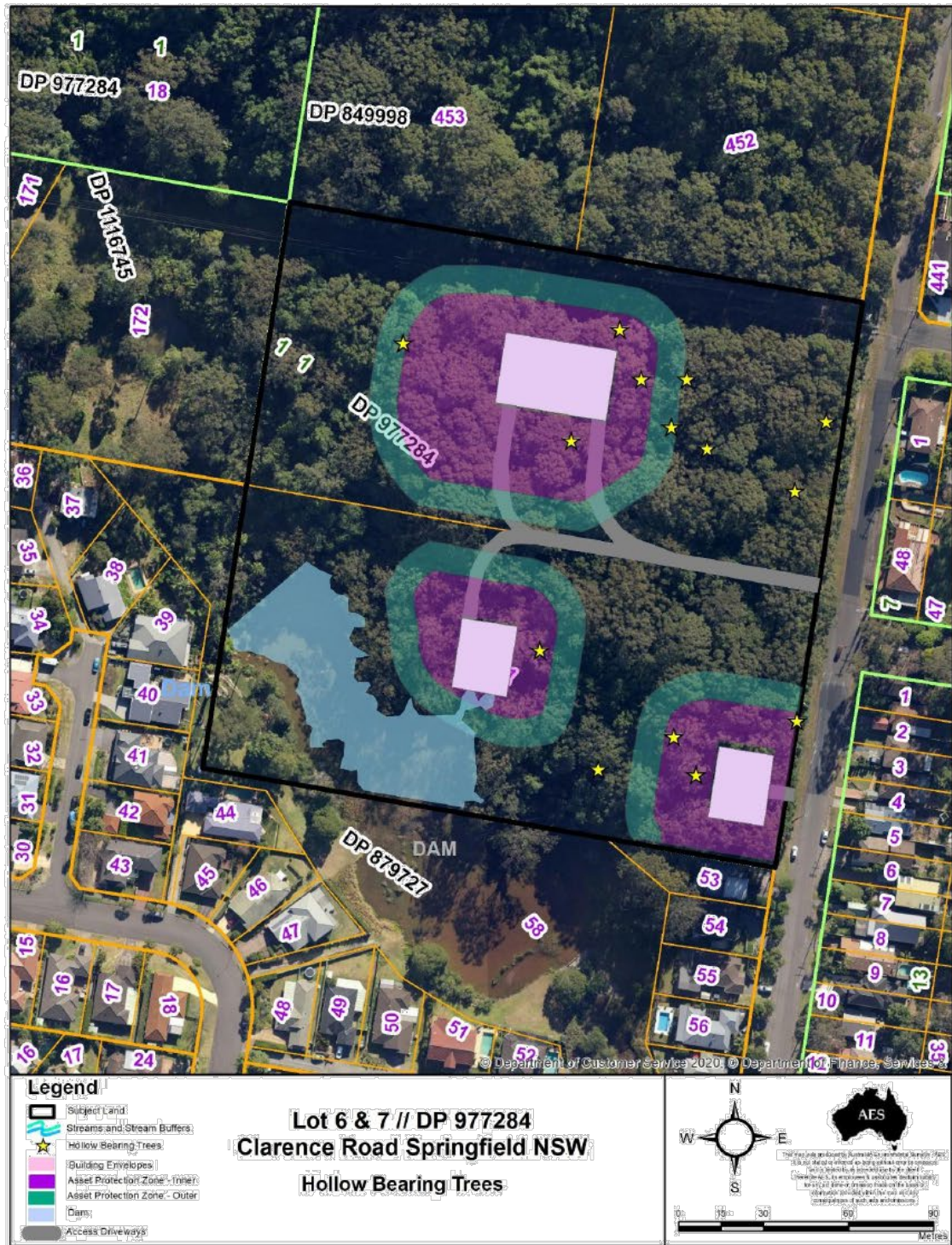


Figure 5: Hollow Bearing Trees



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4 Conclusion

Biodiversity Impacts, threatened species in particular, have been evaluated and avoided in progressing and refining the concept and DA layout for the site. The patch of dead and dying *Rhodamnia* have been completely avoided in the positioning of the building envelopes and APZ requirements to these. The rainforest patch has been suitably buffered and APZ requirements are able to accommodate this in the treatments applied.

Matters raised by Central Coast Council have thus been addressed by the provision of further clarifying information. In relation to this, the relevant s5A Assessments have been refined to address perceived inadequacies and also give consideration to the changes made to the DA layout. The proposal is considered to be unlikely to have a significant impact on any threatened entities, particularly those known to be present and which have been given consideration and avoided completely by the changes to the proposal.

In relation to the aquatic weed (*Salvinia*) infestation on the dam. Consideration should be given to the dam being removed which obviates the potential for an otherwise likely perpetual aquatic weed management requirement, given that upstream infestations are beyond the proponents control.

In relation to *Rhodamnia rufescens*, advice should be sought on any developments in measures being researched by RBG or DPIE to be incorporated into the VM to be developed for the site.

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Appendix A Relevant s5A Assessments

A relatively thorough flora fauna and flora assessment was previously undertaken (Keystone Ecological, 2018). That assessment included s5A Assessments for 31 threatened entities (flora, fauna and communities) considered to have potential to occur on or in the vicinity of the subject land. This assessment included several species with either marginal or no likely chance of occurring, in doing so erring in a precautionary way. Central Coast Council in its review of Keystone Ecological (2018), asserted somewhat non-specifically

“Threatened species assessment guidelines - The assessment of significance”.

“The Assessments of Significance supplied are currently considered as not meeting the requirements of the DECC Guidelines. This includes a lack of definition or regard to the local occurrence of the endangered ecological communities or local population of species tested, and an underestimate of the clearing required when compared to the RFS General Terms of Approval”.

This generalisation, by implication includes all the subject threatened entities, including species with little to no chance of being impacted or even being present on the subject land. For example, the Green-thighed Frog *Litoria brevipalmata* is a species never recorded south of the Tuggerah Lakes drainage and hence has likely never occurred south of Ourimbah Creek catchment, thus making a re-analysis redundant and a perfunctory exercise beyond the assessment already provided. This includes lack of suitable habitat being present or other factors regarding the threatened entity listed.

The threatened species or ecological communities assessed in the Keystone 2018 assessment included:

*Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregion	Little Lorikeet <i>Glossopsitta pusilla</i>
Rainforest Cassia <i>Senna acclinis</i>	Barking Owl <i>Ninox connivens</i>
Tranquility Mintbush <i>Prostanthera askania</i>	Powerful Owl <i>Ninox strenua</i>
Biconvex Paperbark <i>Melaleuca biconvexa</i>	Masked Owl <i>Tyto novaehollandiae</i>
*Brush Turpentine <i>Rhodamnia rubescens</i>	Sooty Owl <i>Tyto tenebricosa</i>
Magenta Lilly Pilly <i>Syzygium paniculatum</i>	Varied Sittella <i>Daphoenositta chrysoptera</i>
Green-thighed Frog <i>Litoria brevipalmata</i>	Spotted-tailed Quoll <i>Dasyurus maculatus</i>
Wompoo Fruit-Dove <i>Ptilinopus magnificus</i>	Yellow-bellied Glider <i>Petaurus australis</i>
Superb Fruit-Dove <i>Ptilinopus superbus</i>	Squirrel Glider <i>Petaurus norfolkensis</i>
Black-necked Stork <i>Ephippiorhynchus asiaticus</i>	Long-nosed Potoroo <i>Potorous tridactylus</i>
Australasian Bittern <i>Botaurus poiciloptilus</i>	Parma Wallaby <i>Macropus parma</i>
Black Bittern <i>Ixobrychus flavicollis</i>	Grey-headed Flying-fox <i>Pteropus poliocephalus</i>
Square-tailed Kite <i>Lophoictinia isura</i>	*Eastern Freetail-bat <i>Micronomus norfolkensis</i>
Gang-gang Cockatoo <i>Callocephalon fimbriatum</i>	Yellow-bellied Sheath-tail-bat <i>Saccolaimus flaviventris</i>
Glossy Black-Cockatoo <i>Calyptorhynchus lathami</i>	Eastern False Pipistrelle <i>Falsistrellus tasmaniensis</i>

The s5A assessments considered here as relevant for the subject land include only those species that are categorically known to be present on the subject land and hence with any real likelihood of being impacted negatively. These three, (from the list above*), s5A assessments are duplicated here from Keystone Ecological (2018) and are discussed and evaluated below. The other s5A assessments appear to already provide a satisfactory and valid indication of likely impacts from the proposal on any locally occurring populations.



Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregion

Lowland Rainforest in the NSW North Coast and Sydney Basin bioregions is listed as an Endangered Ecological Community under the schedules of the *NSW Biodiversity Conservation Act 2016*. It is listed as a critically Endangered Ecological Community under the Schedules of the *Environment Protection and Biodiversity Conservation Act 1999*.

The NSW Scientific Committee describes this community in its final determination (NSW Scientific Committee 2006) as subtropical rainforest and some related, structurally complex forms of dry rainforest (excluding Littoral Rainforest and Lowland Rainforest on Floodplain, which are separately listed). Lowland Rainforest is usually associated with a range of high-nutrient geologies, notably basalts and fine-grained sedimentary rocks, and found in a number of landscapes including coastal plains and plateau, footslopes and foothills. It may be found at altitudes of up to 600 metres ASL in the north of its range but is limited to below 350 metres ASL in the Sydney Basin bioregion (NSW Scientific Committee 2006).

In its undisturbed state, it is characterised by a closed canopy of a diverse array of mesophyllous tree species. Buttressed roots are a common morphological feature and a range of growth forms are present, including palms, vines and vascular epiphytes (NSW Scientific Committee 2006). In disturbed stands the canopy continuity may be broken and / or the canopy may be smothered by exotic vines. They are typically layered into three major strata – emergents (often eucalypts), canopy and sub-canopy which, combined with variations in crown shapes and sizes, give the canopy an irregular appearance (OEH 2018).

While it is acknowledged by the Scientific Committee that every stand is unique, the determination lists a large number of characteristic species. Typical tree species in the community include figs (*Ficus macrophylla*, *F. obliqua* and *F. watkinsiana*), palms (*Archontophoenix cunninghamiana* and *Livistona australis*), Silky Oak (*Grevillea robusta*), Black Bean (*Castanospermum australe*) and Brush Cherry (*Syzygium australe*) (OEH 2016b).

Floristic composition is influenced by its physical environment (including geology and drainage), size of the site, recent rainfall or drought conditions and by its disturbance (including fire, windthrow and treefall) history (NSW Scientific Committee 2006).

Lowland Rainforest belongs to the Subtropical Rainforests class of Keith (2004), and encompasses stands which fall within a number of alliances and sub-alliances of Floyd (1990b). The relationship between the classifications of Floyd (1990b) and this determination is complex. This and other determinations also encompass the transitional stands of rainforest between Lowland, Floodplain and Littoral Rainforest (NSW Scientific Committee 2006).

Strong latitudinal trends are in evidence in the composition of Lowland Rainforest, with species diversity and structural complexity declining from north to south. The Hawkesbury River notionally marks the southern limit of Lowland Rainforest. Similar Rainforest types south of Sydney are separately listed as endangered ecological communities.

Lowland Rainforest supports a large number of threatened species of flora and fauna (NSW Scientific Committee 2006).

Extensive areas of Lowland Rainforest have been cleared since European settlement (Floyd 1990a, b). For example, the Big Scrub of the Mt Warning caldera originally covered approximately 75, 000 hectares; this was reduced to 300 hectares (Floyd 1990b). This pattern has been repeated throughout its range as it produced some of the most sought-after timber trees (e.g. *Toona ciliata* Red Cedar). It is thought that less than 1,000 hectares of Lowland Rainforest remains in NSW (OEH 2018).

Although its occurrences in some places would have been naturally fragmented, restricted to pockets of suitable habitat, the extensive clearing has resulted in a loss of ecological connectivity, with vast tracts of alienated cleared landscapes between small, isolated stands of Lowland Rainforest. Therefore, these stands are now at a higher risk of environmental



stochasticity, disruption to pollination and dispersal of fruits or seeds, and likely reductions in the genetic diversity (Lott 1990, Rossetto *et al.* 2004a, b). Further disturbance of these processes may result in a decline in the ecological function of the community.

A number of serious weeds infest Lowland Rainforest, often forming impenetrable thickets, smothering and simplifying the community (Floyd 1990a, Harden *et al.* 2004). Fire rarely takes hold in the interior of large stands, but the edges are often pushed back by repeated burning of adjacent lands as many of its species are poorly equipped with post-fire recovery mechanisms (NSW Scientific Committee 2006).

Other common threats include grazing, climate change and impacts associated with visitation (including soil compaction, possible spread of pathogens, clearing of understorey and inappropriate collection of plant species). The conservation estate does not conserve all types of Lowland Rainforest and many small stands, important for connectivity and maintenance of landscape ecological processes, remain outside conservation reserves (NSW Scientific Committee 2006).

In the Central Coast LGA, a number of vegetation studies have addressed rainforest, including Payne (2002a, 2002b) and Bell (2009a, 2009b). Payne mapped and classified rainforest on Council land in the eastern part of the LGA while Bell's research produced a classification and vegetation map of the entire LGA. Lowland Rainforest may arguably encompass a number of these local mapping units.

All of the rainforest identified in the study area by Bell (2009a) are examples of Lowland Rainforest.

The development site contains approximately 0.13 hectares of this community along the creek line.

(a) in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,

Response:

This question is not relevant to an endangered ecological community.

(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction,

Response:

This question is not relevant to an endangered population.

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

Response:

An area ca 0.27 ha of this vegetation community type is located along the western margin of the subject land. None of the area occupied by this community within the subject land will be directly impacted by the proposal. A large vegetated buffer will also be maintained between any potential future building envelopes and this community. It is considered that the proposal is unlikely to result in a diminution of the extent of this community; a local occurrence is unlikely



to be placed at risk of extinction. Other areas of this vegetation community within the LGA have been mapped by Payne, (2002a,b) and Bell, (2009a b).

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

Response:

This community will not be directly impacted, and a large, vegetated buffer can be maintained; therefore changes to its floristic composition are unlikely to occur.

(d) in relation to the habitat of a threatened species, population or ecological community:

(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and

Response:

No habitat for this community will be impacted by the proposal.

(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and

Response:

This community is partially connected to similar vegetation along the riparian zone to the north. The proposal will not interrupt this connectivity any further than the existing powerline easement already does so.

(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality,

Response:

No area of habitat for this community will be removed, modified, fragmented or isolated.

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly),

Response:

No critical habitat has been declared for this endangered ecological community.

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan,

Response:

There is no recovery plan or threat abatement plan for this species. However, a number of recovery activities have been identified (OEH 2018):

1. Ensure remnants remain connected or linked to each other; in cases where remnants have lost connective links, re-establish them by revegetating sites to act as 'stepping-stones' for fauna, and flora (pollen and seed dispersal). The existing powerline easement along the northern boundary of the property and its maintenance by the energy supply authority will likely continue and would thus compromise any efforts to improve the existing connectivity of



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rainforest across this easement. The identified remnant area of Lowland Rainforest on the subject land (Figure 4) will be subjected to the actions of a vegetation management plan for the site which will ensure the remnants appropriate management.

2. Manage weed populations. The proposed Vegetation Management Plan will address the issue of weed proliferation.

3. Protect against inappropriate fire regimes associated with burning off and hazard reduction burns. The proposed Vegetation Management Plan will address the issue of bushfire fire risk management. The Lowland Rainforest remnant has been buffered by 50m in the proposal concept planning in accordance with CCC Rainforest Management Plan (CCC, 2020).

4. Reduce grazing by livestock and minimise environmental impacts associated with human interaction.

The proposal is consistent with these recovery strategies.

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.

Response:

The proposed subdivision will enable permissible development of the site within habitats outside of, and 50m distant from this community. Issues and management actions identified within the CCC Rainforest MP will be addressed within the proposed VMP for the site. Therefore, the proposal does not constitute a part or exacerbation of any relevant Key Threatening Processes for this EEC.

Conclusion

After consideration of these factors, it is concluded that the proposal is unlikely to result in a significant adverse impact on this threatened entity.



***Rhodamnia rubescens* Brush Turpentine**

Rhodamnia rubescens Brush Turpentine is listed as Critically Endangered under the schedules of the NSW *Threatened Species Conservation Act 1995*. This species is not listed under the schedules of the *Environment Protection and Biodiversity Conservation Act 1999*.

It is a shrub or small tree that grows up to 25 metres in height (PlantNet 2018). It has fissured reddish brown bark and distinctively 3-veined leaves.

Its distribution is north from Batemans Bay (PlantNet 2018) and into Queensland as far north as Maryborough (NSW Scientific Committee 2017). Although mainly coastal, it will occasionally extend inland onto escarpments up to 600 metres ASL in areas with rainfall of 1,000 to 1,600 millimetres (Benson and McDougall 1998)

It commonly occurs in all rainforest sub-forms except cool temperate rainforest and is often found in wet sclerophyll associations in rainforest transition zones and creek side riparian vegetation (Benson and McDougall 1998). The soils occupied are often a range of volcanically derived and sedimentary soils, and it is also a common pioneer species in eucalypt forests (Floyd 1989).

Associated species include *Rhodamnia rubescens* has been documented on herbarium records as occurring in association with *Acacia melanoxylon*, *Acmena smithii*, *Breynia oblongifolia*, *Corymbia intermedia*, *Endiandra discolor*, *Eucalyptus bosistoana*, *Eucalyptus tereticornis*, *Glochidion sumatranum*, *Guioa semiglaucula*, *Lophostemon suaveolens* and *Mallotus philippensis* (NSW Scientific Committee 2017).

Rhodamnia rubescens Brush Turpentine is known to occur in Littoral Rainforest and Lowland Rainforest endangered ecological communities and is likely to occur in other listed rainforest communities (NSW Scientific Committee 2017).

Although it is a common and widespread species (at least prior to 2010), it is severely threatened by infection from the exotic rust fungus *Austropuccinia psidii* Myrtle Rust (NSW Scientific Committee 2017), a listed Key Threatening Process. *Rhodamnia rubescens* Brush Turpentine is a known host of this fungus and has been determined as "Highly to Extremely Susceptible" (Pegg et al. 2014). Field trials have shown that canopy loss is inevitable, and no individuals were found to display any resistance (Carnegie et al. 2016). Although infected trees bore fruit in that trial, none survived to maturity (NSW Scientific Committee 2017).

Monitoring of the spread of Myrtle Rust has documented a steady spread across the range of *Rhodamnia rubescens* Brush Turpentine, and a rapid decline of individuals of this species within infected populations (NSW Scientific Committee 2017), culminating in a 10% decline of the population from 2011 to 2014.

The ubiquity of susceptible Myrtaceae species across the landscape makes broad scale eradication or containment of Myrtle Rust unlikely (Glen et al. 2007). No adequate *ex-situ* collections of *Rhodamnia rubescens* material exist (NSW Scientific Committee 2017). There are no known effective or practical chemical, biological or management controls currently available for protecting populations of *Rhodamnia rubescens* in natural ecosystems from Myrtle Rust infection.

Therefore, further rapid reductions of *Rhodamnia rubescens* populations and individuals are highly likely (NSW Scientific Committee 2017).

Healthy individuals of this species were observed in Transect 2 in E6ai Coastal Narrabeen Moist Forest near the centre of the site.

(a) in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,

Response:

The developable areas are within the habitat of this species, and there is the potential for direct impacts to occur. Therefore, in order to minimise and avoid direct impacts, targeted survey was undertaken as part of the establishment of future building envelopes and APZs etc the area where they occur was flagged and avoided so that building envelopes and APZs avoid this demarcated area.

However, the most significant threat to the life cycle of this species is Myrtle Rust. Infected plants were observed, this disease is endemic and apparently was first detected on the Central Coast (NSW TSSC, 2020) and it is likely to be only a matter of time before the infection eliminates the population. Nevertheless, the VMP will employ Best practice controls and seek management advice from the RBG Biosecurity team and the DPIE assigned officer for this species, the area will be avoided and impacts to it prevented during all site work.

(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction,

Response:

This question is not relevant to a threatened species.

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

Response:

This question is not relevant to a threatened species.

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

Response:

This question is not relevant to a threatened species.

(d) in relation to the habitat of a threatened species, population or ecological community:

(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and

Response:

The proposed subdivision will facilitate the eventual development of four building envelopes and associated APZs. These areas will fall within E6ai Coastal Narrabeen Moist Forest, a recognised habitat for this species. The maximum area likely to be directly impacted by these works is approximately 1.5 hectares, half of which is APZ but the area of actual occurrence has been avoided and will be protected.

(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and

Response:

The eventual development will provide some fragmentation of the occurrence of E6ai Coastal Narrabeen Moist Forest. However, the level of connectivity retained is unlikely to prevent the free movement of insect pollinators of this species.



(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality,

Response:

As this is a common species in suitable habitat, the loss and modification of 1.5 hectares of potential and realised habitat is unlikely in itself to threaten the long-term survival of the species in the locality.

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly),

Response:

There has been no critical habitat declared for this species.

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan,

Response:

No recovery actions have been identified for this species. Moreover, the Final Determination and Conservation Advice (TSSC 2019; 2020) identifies that there are currently no options for control of Myrtle Rust, the driver of its listing. Furthermore, efforts to ex-situ propagate the species are considered virtually futile within its known range due to the ubiquitous propagules of the pathogen (RBG Biosecurity Network 2019; Lachlan Copland pers. comm.)

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.

Response:

The relevant recognised Key Threatening Process to this species is "Introduction and establishment of Exotic Rust Fungi of the order Pucciniales pathogenic on plants of the family Myrtaceae". Best practice controls are to be adopted during works in the bushland and within the VMP, but it is unlikely to prevent the ultimate impact of this fungus on the site's population that already shows evidence of dead and dying individuals.

In addition, "Clearing of Native Vegetation" may also be relevant where/if uninfected populations exist. The proposal may facilitate the removal and modification of up to approximately 1.5 hectares of potential habitat.

Conclusion

After consideration of these factors, it is concluded that the proposal is unlikely to result in any direct significant adverse impact on this threatened entity and any impacts are likely to occur regardless of the development given its infected state by Myrtle Rust. It is understood trials applying fungicides did not provide long term survival and populations at Tucki Tucki NR subsequently died regardless of the fungicidal treatment (RBG 2020).

***Micronomus norfolkensis* Eastern Freetail-bat**

The Eastern Freetail-bat is listed as Vulnerable under the schedules of the *NSW Biodiversity Conservation Act 2016*. This species is not listed under the Schedules of the *Environment Protection and Biodiversity Conservation Act 1999*.

The Eastern Freetail-bat has dark brown to reddish brown fur on the back and is slightly paler below. Like other freetail-bats it has a long (3 - 4 cm) bare tail protruding from the tail membrane (OEH 2018). It is an insectivore but nothing specific is known about its diet (Churchill 1998, 2008).

It is found along the east coast from south eastern Queensland to southern NSW (OEH 2018). Most records are from dry eucalypt forest and woodland, although a number have been caught flying low over a rocky river through rainforest and wet sclerophyll forest (Hoye *et al.* 2008). Research in coastal forests near Coffs Harbour have shown that it is more active on upper slopes where the flyways are open and uncluttered, rather than along creeks (Hoye *et al.* 2008).

Recent research (McConville and Law 2013) suggests that this species is adapted to open landscapes and that they do not move far (only up to 2 kilometres) from roost sites to foraging areas. While longer range movements have been recorded (e.g. 5 kilometres at Urbenville - McConville and Law 2013), the data suggest this species has a smaller foraging range than other *Mormopterus* species (e.g. 12 kilometres by *Mormopterus* species 4 – Lumsden *et al.* 2008).

They occur in small colonies (sometimes perhaps only 2 bats), and roosts have been recorded in the roof of a hut, under bark and the caps of telegraph poles. However, it is more usually found in hollows in large mature trees (Churchill 2008). All natural roost sites have been found in large mature eucalypts and they will use paddock trees and remnant vegetation in farmland (Hoye *et al.* 2008). In agricultural landscapes, trees in roadside reserves may provide critical for this species (McConville and Law 2013). They will also roost in artificial roosts, with a colony in NSW known to use the same boxes for over 5 years (Churchill 2008).

Young are born in late November or early December and are free-flying by late January (Hoye *et al.* 2008).

A survey of the fauna of the large sandstone-based reserves around the northern Sydney fringe found that this species was infrequently recorded within these reserves. In this area, it is thought that they may prefer the larger alluvial valleys and coastal plains (DEC 2005, DECC 2008).

This species was recorded foraging on the subject site during surveys. A definite call of this species was recorded on the subject site during surveys undertaken in 2015. Suitable habitat for this species occurs across the site with plentiful foraging habitat and a number of suitable hollow bearing trees.

(a) in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,

Response:

The subject site provides both foraging habitat for this species and potential breeding sites (hollow-bearing trees) however only one such hollow bearing tree is located within the APZ and none within the building envelopes due to avoidance measures undertaken in the repositioning of them. Suitable hollow if required to be removed will be compensated for with replacement nest boxes. The potential and realised habitat on site would only represent a very small proportion of what is available locally and regionally as this species is highly mobile, able to exploit widely separated resources.



(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction,

Response:

This question is not relevant to a threatened species.

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

Response:

This question is not relevant to a threatened species.

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

Response:

This question is not relevant to a threatened species.

(d) in relation to the habitat of a threatened species, population or ecological community:

(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and

Response:

The proposed subdivision will require the removal and modification of approximately 1.5 hectares of suitable habitat for future proposed development envelopes and APZ. In order to minimise impacts, the final extent to which this will be altered will be determined on site by the Project Ecologist with the Bushfire Consultant. The loss of potential roosting habitat will be compensated for by the installation of replacement nest boxes.

(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and

Response:

This is a highly mobile species able to exploit widely separated resources. The proposal is unlikely to prevent this species from moving around the landscape or accessing required resources.

Moreover, the major connection to other habitats to the north will remain intact.

(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality,

Response:

This is a highly mobile species able to exploit habitats across a large range. The area of habitat to be removed or modified by the proposed development envelopes and APZ is relatively small in relation to what is widely available in the local area for this highly mobile species.

However, the removal of suitable roost habitats (a hollow-bearing tree) is considered more important for the long-term survival of this species. In order to ameliorate any losses of suitable hollows, nest boxes are to be installed within the remaining vegetation on site at a minimum ratio of 1:1.

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly),



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Response:

No critical habitat has been declared for this species.

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan,

Response:

There is no recovery plan or threat abatement plan for this species. However, a number of recovery activities have been identified (OEH 2018):

1. Retain hollow-bearing trees and provide for hollow tree recruitment.
2. Retain foraging habitat; and
3. Minimise the use of pesticides in foraging areas.

The development envelopes have been determined in order to minimise potential impacts to available resources for this species. If losses of hollow-bearing trees is inevitable, then suitable nest boxes are to be installed within the retained bushland at a minimum ratio of 1:1. The proposal therefore is largely consistent with the recovery strategies.

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.

Response:

The proposal contributes to the Key Threatening Process "Clearing of Native Vegetation" and potentially to the "Loss of hollow-bearing trees".

Conclusion

After consideration of these factors, it is concluded that the proposal is unlikely to result in a significant adverse impact on this threatened entity.





Travers
bushfire & ecology

Bushfire Protection Assessment

Proposed residential subdivision

Lots 6 & 7 Section 1 DP 977284
35-45 Clarence Road,
Springfield

Under Section 100B of the Rural Fires Act
(1997)

November 2020
(REF: 20AP02)



Bushfire Protection Assessment

Proposed residential subdivision
Lots 6 & 7 Section 1 DP 977284
35-45 Clarence Road, Springfield

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The mapping is indicative of available space and location of features which may prove critical in assessing the viability of the proposed works. Mapping has been produced on a map base with an inherent level of inaccuracy, the location of all mapped features are to be confirmed by a registered surveyor.

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EXECUTIVE SUMMARY

This bushfire protection assessment has been undertaken for the proposed four (4) lot residential subdivision of Lot 6 & 7 Section 1 DP 977284, No. 35-45 Clarence Road, Springfield.

The development is categorised by the NSW Rural Fire Service (RFS) as being a residential subdivision and this requires the RFS to issue a bushfire safety authority (BSA) in accordance with *Planning for Bush Fire Protection 2019 (PBP 2019)*.

The proposed residential subdivision must ensure that the extent of bushfire attack that can potentially impact a building envelope should not exceed a radiant heat flux of 29kW/m². This rating assists in determining the size of the asset protection zone (APZ), which provides the necessary defendable space between hazardous vegetation and a building.

This assessment has found that bushfire can potentially affect the proposed development from the bushland vegetation surrounding the future allotments, resulting in future buildings being exposed to potential radiant heat and ember attack.

In recognition of the bushfire risk posed to the site by the surrounding bushland, *Travers bushfire & ecology* propose the following combination of bushfire measures;

- APZs in accordance with the minimum setbacks outlined within *PBP 2019* (Table A1.12.2 FFDI 100);
- Provision of property access in accordance with the acceptable solutions outlined in *PBP 2019*;
- Water, electricity and gas supply in compliance with the acceptable solutions outlined in *PBP 2019*; and
- Future dwelling construction in compliance with the appropriate construction sections (BAL 29) of *AS3959-2018*, and *PBP 2019*.

GLOSSARY OF TERMS

AHIMS	Aboriginal Heritage Information System
APZ	asset protection zone
AS1596	<i>Australian Standard – The storage and handling of LP Gas</i>
AS2419	<i>Australian Standard – Fire hydrant installations</i>
AS3745	<i>Australian Standard – Planning for emergencies in facilities</i>
AS3959	<i>Australian Standard – Construction of buildings in bushfire-prone areas 2018</i>
BAL	<i>bushfire attack level</i>
BCA	<i>Building Code of Australia</i>
BSA	bushfire safety authority
DA	development application
DLUP	Development Land Use Plan
EEC	Endangered ecological community
EP&A Act	<i>Environmental Planning & Assessment Act 1979</i>
FFDI	forest fire danger index
IPA	inner protection area
LEP	Local Environmental Plan
LGA	local government area
m	metres
NCC	<i>National Construction Code</i>
OPA	outer protection area
PBP 2019	<i>Planning for Bush Fire Protection 2019</i>
RF Act	<i>Rural Fires Act 1997</i>
RFS	NSW Rural Fire Service
TBE	<i>Travers bushfire & ecology</i>

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REFERENCES

SCHEDULE 1 – Bushfire Protection Measures

APPENDIX 1 – Management of Asset Protection Zones



Travers bushfire & ecology has been engaged to undertake a bushfire protection assessment for the proposed residential subdivision of Lot 6 & 7 Section 1 DP 977284, No. 35-45 Clarence Road, Springfield.

The proposed development is identified as bushfire prone on *Central Coast Council's* bushfire prone land map (refer Figure 1.1). This triggers a formal assessment by Council in respect of the NSW Rural Fire Service (RFS) policy against the provisions of *Planning for Bush Fire Protection (PBP)*.

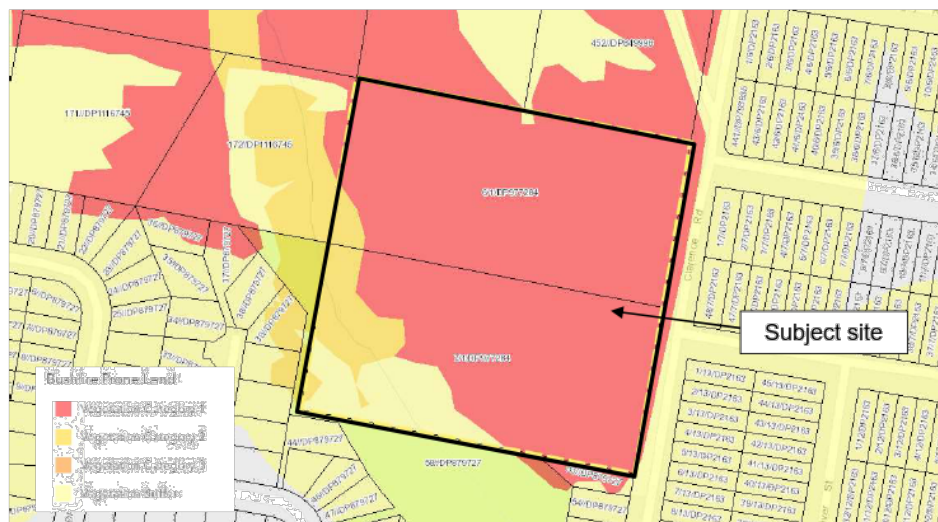


Figure 1.1 – Bushfire Prone Land Map
(source: Planning Portal, 2020)

1.1 Aims of the assessment

The aims of the bushfire protection assessment are to:

- review the bushfire threat to the landscape
- undertake a bushfire attack assessment in accordance with *PBP*
- provide advice on mitigation measures, including the provision of asset protection zones (APZs), construction standards and other specific fire management issues
- review the potential to carry out hazard management over the landscape.

1.2 Proposed development

The proposed subdivision involves the creation of four (4) new residential allotments as well as associated driveways within Lot 6 & 7 DP 977284, No. 35-45 Clarence Road, Springfield.

Allotments will be between 10,371m² to 10,374m² in size with private access provided via a proposed right of way extending from Clarence Road to the east.

Schedule 1 shows the proposed subdivision development and bushfire protection measures, including APZs.

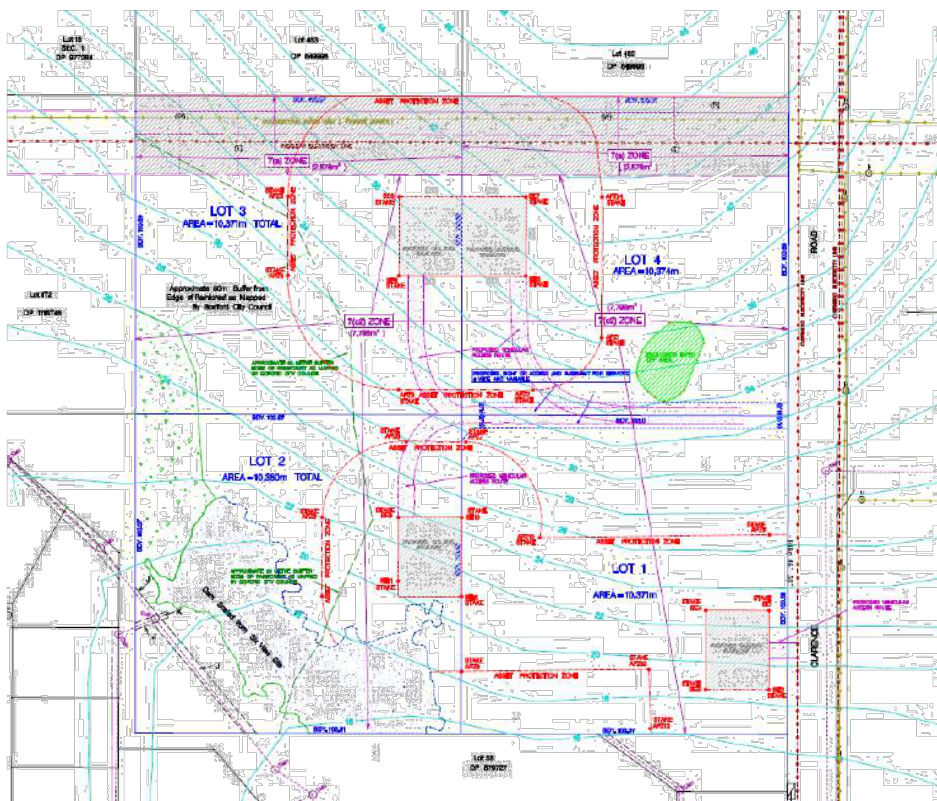


Figure 1.2 – Plan of Subdivision
(source: Hammond Smealie & Co Pty Ltd, Issue E, Dated 21/09/2020)

1.3 Information collation

Information sources reviewed for the preparation of this report include the following:

- Plan of Subdivision prepared by *Hammond Mealie & Co Pty Ltd* , Issue E, dated 21/09/2020
- Large Lot Residential Subdivision Clarence Road, Springfield Supplementary Report, prepared by *Australian Environmental Surveys*, dated October 2020

- NearMap aerial photography
- Topographical maps DLPI of NSW 1:25,000
- Australian Standard 3959 Construction of buildings in bushfire-prone areas (2018)
- Planning for Bush Fire Protection 2019 (PBP)

An inspection of the proposed development site and surrounds was undertaken by Nicole van Dorst on 19th October 2020 to assess the topography, slopes, aspect, drainage, vegetation and adjoining land use. The identification of existing bushfire measures and a visual appraisal of bushfire hazard and risk were also undertaken.

1.4 Site description

The development site is located within the local government area (LGA) of the Central Coast, to the west of the Clarence Road and north-east of Robina Parade (refer Figure 1.3).

The entire development site is zoned DM – Deferred Matter and is bound by managed residential land & a dam to the south, south-west and beyond Clarence Road to the east. The site is largely undeveloped and supports vegetation mapped by Gosford LGA Mapping (2004) as Wet Sclerophyll Forest and Rainforest. A powerline easement traverses the sites northern boundary with forest extending further north.

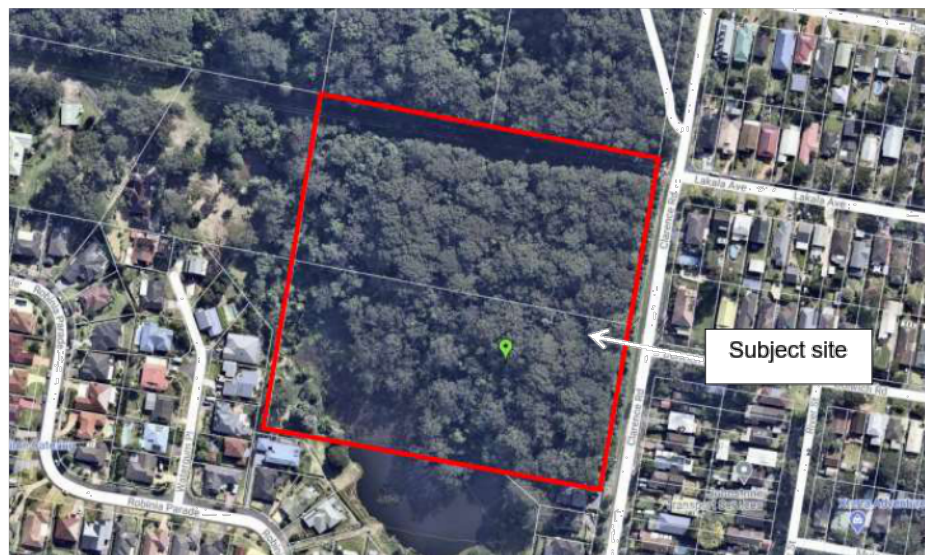


Figure 1.3 – Aerial appraisal
(source: NearMap, 2020)


1.5 Legislation and planning instruments

Is the site mapped as bushfire prone?	Yes
Proposed development type	Residential subdivision
Is the development considered integrated for the purposes of Section 100B of the Rural Fires Act 1997?	Yes – referral to and approval by the NSW RFS is required for the issue of a bushfire safety authority (BSA)

Is the proposal located in an Urban Release Area as defined under Clause 273 of the EP&A Regulations?	No
Zoning	DM – Deferred Matter (refer Figure 1.4) – 7c2 Zone applies (allowance for large lot subdivision).
Significant environmental features	Yes – the proposed development (including APZs) will involve the removal of native vegetation. The supplementary report prepared by AES, 2020 provides further response to Council's concerns regarding tree retention, hollow bearing trees, avoidance of the critically endangered <i>Rhodamnia rubescens</i> and adherence to Council's Rainforest Policy.
Details of any Aboriginal heritage	No known.
Does the proposal rely on an alternative solution?	No.



Figure 1.4 – Land zoning
(source: Gosford LEP 2014)



Bushfire Threat Assessment

2

To assess the bushfire threat and to determine the required width of an APZ for a development, an assessment of the potential hazardous vegetation and the effective slope within the vegetation is required. These elements include the potential hazardous landscape that may affect the site and the effective slope within that hazardous vegetation.

2.1 Hazardous fuels

PBP guidelines require the identification of the predominant vegetation formation in accordance with David Keith (2004) if using the simplified acceptable solutions in *PBP* 2019, or alternatively the vegetation class if adopting the comprehensive vegetation fuel loads (as allowable when undertaking an assessment under Method 2 of AS3959). The hazardous vegetation is calculated for a distance of at least 140m from a proposed building envelope.

The vegetation posing a bushfire threat to the proposed development includes:

- Forest located within north-eastern portion of the site as well as adjoining land to the north. This vegetation is identified in the Gosford LGA Mapping as North Coast Wet Sclerophyll Forest (refer Schedule 1). A portion of the APZ to the north is located within the existing electrical easement as depicted in Photo 1.



Photo 1 – Forest to north

- Rainforest located within south-western portion of the site (adjacent to dam) as well as adjoining land to the west. This vegetation is identified in the Gosford LGA Mapping as Coastal Warm Temperate Rainforest (refer Schedule 1 & photo 2 below).



Photo 2 – Rainforest and dam to the south-west

2.2 Effective slope

The effective slope (post earthworks) has been assessed for up to 100m from the development site. Effective slope refers to that slope which provides the most effect upon likely fire behaviour. A mean average slope may not in all cases provide sufficient information such that an appropriate assessment can be determined.

The effective slope within the hazardous vegetation is described in detail within Table 2.1 below.

2.3 Bushfire attack assessment

The following assessment has determined the APZ and BAL levels via the following approaches;

- Table A1.12.2 & A1.12.5 of *PBP 2019*.

A fire danger index (FDI) of 100 has been used to calculate bushfire behaviour on the site based on its location within the Greater Sydney region. Table 2.1 provides a summary of the bushfire attack assessment based on residential development and the methodology identified above.

Table 2.1 – Bushfire attack assessment

Aspect	Vegetation formation within 140m of development	Effective slope of land	APZ provided (metres) (Table A1.12.2 <i>PBP</i>) (refer Note 1)	Building construction standards
PROPOSED LOT 1				
North	Forest	Level to upslope	24	BAL 29
West		0-<5 ^{oD}	29	

Aspect	Vegetation formation within 140m of development	Effective slope of land	APZ provided (metres) (Table A1.12.2 PBP) (refer Note 1)	Building construction standards
East and south	Managed land	N/A	>100 (Includes Clarence Road)	
PROPOSED LOT 2				
North and east	Forest	Level to upslope	24	BAL 29
North-west		0-<5 ^{oD}	29	
South-west & west	Rainforest / Dam	Level	12-24	
PROPOSED LOT 3 & 4				
North and east	Forest	Level	24	BAL 29
South-east		0-<5 ^{oD}	29	
North-west		5-<10 ^{oD}	36	
South-west & west		10-<15 ^{oD}	45	

Notes: * Slope is either 'U' meaning up slope or 'C' meaning cross slope or 'D' meaning down slope

Note 1 – The APZ is to consist of an Inner Protection Area (IPA) and a 10m wide Outer Protection Area (OPA) as depicted in Schedule 1 attached.



Specific Protection Issues

3

3.1 Asset protection zones (APZs)

Table 3.1 outlines the proposal's compliance with the performance criteria for APZs.

Table 3.1 – Performance criteria for asset protection zones (PBP 2019 guidelines pg. 43)

Performance criteria	Acceptable solutions	Acceptable solution	Performance solution	Comment
Potential building footprints will not be exposed to radiant heat levels exceeding 29kW/m ² on each proposed lot	APZs are provided in accordance with Tables A1.12.2 and A1.12.4 based on the FFDI	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Complies – refer Section 2.3
APZs are managed and maintained to prevent the spread of a fire towards the building	APZs are managed in accordance with the requirements of Appendix 4	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The APZ consists of landscaped areas, roads and turfed areas.
The APZ is provided in perpetuity	APZs are wholly within the boundaries of the development site	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent. An 88B easement will be created to ensure the ongoing maintenance of all APZs.
APZ maintenance is practical, soil stability is not compromised and the potential for crown fires is minimised	The APZ is located on lands with a slope of less than 18°	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Complies. All slopes are less than 18 degrees.
Landscaping is designed and managed to minimise flame contact and radiant heat to buildings, and the potential for wind-driven embers to cause ignitions	Landscaping is in accordance with Appendix 4	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Fencing is constructed in accordance with section 7.6	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent (see Note 1 below).
Note 1: Section 7.6 of PBP states that all fences in bush fire prone areas should be made of either hardwood or non-combustible material. However, in circumstances where the fence is within 6m of a building or in areas of BAL 29 or greater, they should be made of non-combustible material only.				

3.2 Building protection

Building construction standards for the proposed future dwellings located within 100m of bushfire prone land are to be applied in accordance with *AS3959 Construction of buildings in bushfire prone areas (2018)* and Section 7.5 of *Planning for Bush Fire Protection 2019*.

APZ's have been applied to all dwellings to achieve a BAL 29 construction standard.

3.3 Hazard management

APZs for Lots 1 – 4 are required to be managed as an IPA in accordance with RFS guidelines *Standards for Asset Protection Zones* (RFS, 2005), with landscaping design to comply with Appendix 4 of *PBP*. Appendix 2 provides maintenance advice for vegetation within the APZ.

An APZ's are to be subject to an 88B easement to ensure ongoing maintenance in perpetuity. This will include the APZ's associated within Lot 3 & 4 (i.e. shared APZ across two lots) as well as the APZ associated with proposed Lot 2. This APZ extends within adjoining Lot 1. The 88B will allow the future owner of Lot 2 to maintain the APZ for their benefit in perpetuity.

3.4 Access for firefighting operations

Access to each allotment will be provided from private access roads extending to Clarence Road to the east.

The proposal's compliance with the acceptable solutions outlined in *PBP 2019* is detailed within Table 3.2 below.

Table 3.2 – Performance criteria for access (*PBP 2019*)

Performance criteria	Acceptable solution	Acceptable solution	Performance solution	Comment
PROPERTY ACCESS Firefighting vehicles can access the dwelling and exit the property safely.	There are no specific access requirements in an urban area where an unobstructed path (no greater than 70m) is provided between the most distant external part of the proposed dwelling and the nearest part of the public access road (where the road speed limit is not greater than 70kph) that supports the operational use of emergency firefighting vehicles.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed Lot 1 has direct access to Clarence Road. No further requirements are necessary. The right way for proposed Lots 2 – 4 will require compliance with the following.
	minimum 4m carriageway width;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Complies. Can be a condition of consent.
	in forest, woodland and heath situations, rural property access roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m at the passing bay;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A. The access road is less than 200m in length

Performance criteria	Acceptable solution	Acceptable solution	Performance solution	Comment
	a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent.
	provide a suitable turning area in accordance with Appendix 3;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent.
	curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent.
	the minimum distance between inner and outer curves is 6m;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent.
	the crossfall is not more than 10 degrees;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent.
	maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads; and	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent.
	a development comprising more than three dwellings has access by dedication of a road and not by right of way.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent.
	Note: Some short constrictions in the access may be accepted where they are not less than 3.5m wide, extend for no more than 30m and where the obstruction cannot be reasonably avoided or removed. The gradients applicable to public roads also apply to community style development property access roads in addition to the above.			

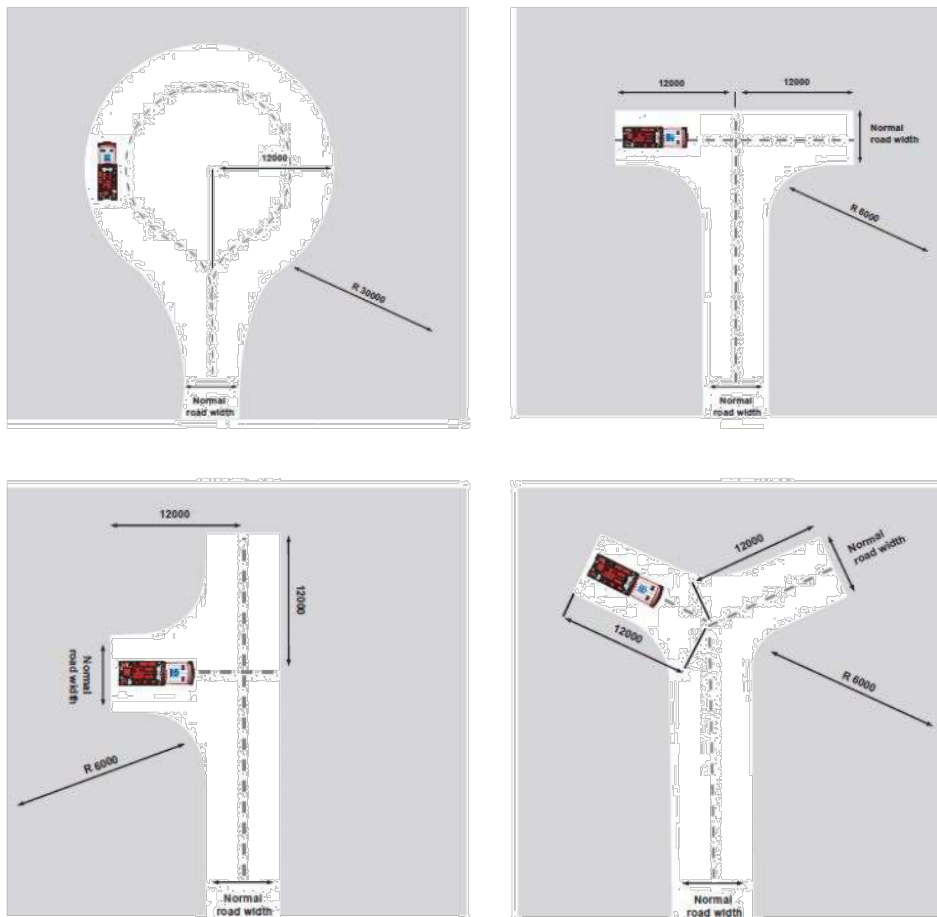


Figure 3.1 – Turning head dimensions

3.5 Water supplies

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of bushfire. Table 3.3 outlines the proposal's compliance with the acceptable solutions for reticulated water supply.

Table 3.3 – Performance criteria for reticulated water supplies (PBP guidelines pg. 47)

Performance criteria	Acceptable solutions	Acceptable solution	Performance solution	Comment
Adequate water supplies is provided for firefighting purposes.	Reticulated water is to be provided to the development, where available.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Reticulated water is available for the dwelling on Lot 1

Performance criteria	Acceptable solutions	Acceptable solution	Performance solution	Comment
	A static water supply is provided for non-reticulated developments or where reticulated water supply cannot be guaranteed	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Static water supply is to be provided for Lots 2, 3 & 4 based on the distances of the dwellings to the hydrants.
	Static water supplies shall comply with Table 5.3d.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Future dwellings within Lots 2 – 4 are to be provided with 20,000L static water supply.
A static water supply is provided for firefighting purposes in areas where reticulated water is not available.	Where no reticulated water supply is available, water for firefighting purposes is provided in accordance with Table 5.3d;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	An additional water supply 20,000L tank is to be provided for Lots 2 – 4.
	A connection for firefighting purposes is located within the IPA or non-hazard side and away from the structure; 65mm Storz outlet with a ball valve is fitted to the outlet;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Ball valve and pipes are adequate for water flow and are metal;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Supply pipes from tank to ball valve have the same bore size to ensure flow volume;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	A hardened ground surface for truck access is supplied within 4m;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Above-ground tanks are manufactured from concrete or metal;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Raised tanks have their stands constructed from non-combustible material or bush fire-resisting timber (see Appendix F of AS 3959);	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Unobstructed access can be provided at all times;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Underground tanks are clearly marked;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent

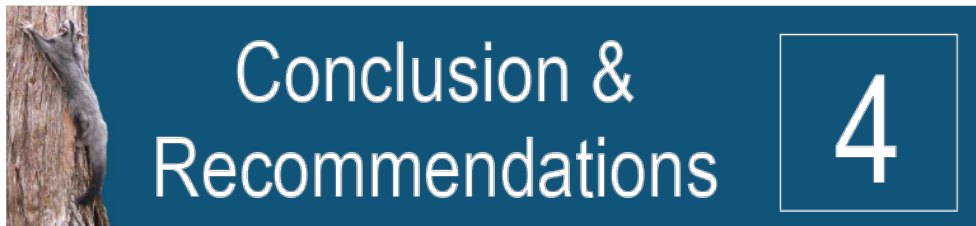
Performance criteria	Acceptable solutions	Acceptable solution	Performance solution	Comment
	All exposed water pipes external to the building are metal, including any fittings;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent
	Where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump shall be 19mm internal diameter;	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent. A pump is to be provided.
	Fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be a condition of consent. A fire hose reel is to be provided.

3.6 Gas

The intent of measures is to locate gas so as not to contribute to the risk of fire to a building. Table 3.4 outlines the required acceptable solutions for gas supply.

Table 3.4– Performance criteria for gas supplies (PBP guidelines pg. 47)

Performance criteria	Acceptable solutions	Acceptable solution	Performance solution	Comment
Location of gas services will not lead to the ignition of surrounding bushland or the fabric of buildings.	Reticulated or bottled gas bottles are to be installed and maintained in accordance with AS/NZS 1596 (2014), the requirements of relevant authorities and metal piping is to be used.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be made a condition of consent.
	All fixed gas cylinders are to be kept clear of flammable materials to a distance of 10m and shielded on the hazard side.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be made a condition of consent.
	Connections to and from gas cylinders are metal.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be made a condition of consent.
	Polymer sheathed flexible gas supply lines are not used.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be made a condition of consent.
	Above ground gas service pipes are metal, including and up to any outlets.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Can be made a condition of consent.



Conclusion & Recommendations

4

4.1 Conclusion

This bushfire protection assessment has been undertaken for the proposed residential subdivision of Lot 6 & 7 Section 1 DP 977284, No. 35-45 Clarence Road, Springfield.

This assessment has found that bushfire can potentially affect the proposed development from the bushland vegetation surrounding the development, resulting in future buildings being exposed to potential radiant heat and ember attack.

In recognition of the bushfire risk posed to the site by the surrounding bushland, *Travers bushfire & ecology* propose the following combination of bushfire measures;

- APZs in accordance with the minimum setbacks outlined within *PBP 2019* (Table A1.12.2 FFDI 100);
- Provision of property access in accordance with the acceptable solutions outlined in *PBP 2019*;
- Water, electricity and gas supply in compliance with the acceptable solutions outlined in *PBP 2019*;
- Future dwelling construction in compliance with the appropriate construction sections of *AS3959-2018*, and *PBP 2019*.

The following recommendations are provided to ensure that the development is in accordance with, or greater than, the requirements of *PBP*.

4.2 Recommendations

Recommendation 1 - The development is as generally indicated on the attached Schedule 1 – Plan of Bushfire Protection Measures.

Recommendation 2 - APZs for each allotment are to be managed as an inner protection area (IPA) and an outer protection area (OPA) in perpetuity as outlined in Table 2.1 and as generally depicted within Schedule 1.

Recommendation 3 - At the issue of subdivision certificate a suitably worded instrument shall be created over Lots 1- 4 pursuant to section 88 of the *Conveyancing Act 1919* which:

- Ensures that the APZ as shown on the plan titled Schedule 1 – Bushfire Protection Measures prepared by *Travers bushfire & ecology* referenced 20AP02_BF001 dated 5 November 2020 is managed as an IPA and an OPA as outlined within Section 4.1.3 and Appendix 4 of *Planning for Bush Fire Protection 2019* and the NSW Rural Fire Service document '*Standards for asset protection zones*'.

Recommendation 4 – Property access is to comply with the acceptable solutions outlined in Section 5.3.2 of *Planning for Bush Fire Protection 2019*.

Recommendation 5 - Building construction standards for the proposed future dwellings within are to be applied in accordance with BAL 29 as outlined in *AS3959 Construction of buildings in bushfire prone areas (2018)*, and *Planning for Bush Fire Protection 2019*.

Recommendation 6 - Water, electricity and gas supply is to comply with Section 5.3.3 of *Planning for Bush Fire Protection 2019*.

Recommendation 7 - Fencing is to comply with Section 7.6 of PBP. All fences in bush fire prone areas should be made of either hardwood or non-combustible material. However, in circumstances where the fence is within 6m of a building or in areas of BAL 29 or greater, they should be made of non-combustible material only.

REFERENCES

- Australian Building Codes Board (2010) – *Building Code of Australia*, Class 1 and Class 10 Buildings Housing Provisions Volume 2.
- Chan, K.W. (2001) – *The suitability of the use of various treated timbers for building constructions in bushfire prone areas*. Warrington Fire Research.
- Councils of Standards Australia AS3959 (2009) – *Australian Standard Construction of buildings in bush fire-prone areas*.
- Keith, David (2004) – *Ocean Shores to Desert Dunes – The Native Vegetation of New South Wales and the ACT*. The Department of Environment and Climate Change.
- Rural Fire Service (2019) - *Planning for bushfire protection – a guide for councils, planners, fire authorities and developers*. NSW Rural Fire Service.
- Tan, B., Midgley, S., Douglas, G. and Short (2004) - *A methodology for assessing bushfire attack*. RFS Development Control Service.





DISCLAIMER - CAD not georeferenced and has been aligned to LPI boundaries. Verification by a registered surveyor required prior to finalisation

Legend

- Lot Boundary (source: CAD)
- Contour (source: LiDAR)
- 50m rainforest buffer (source: Keystone Ecological)
- Inner Protection Area (IPA)
- Outer Protection Area (OPA)
- North Coast Wet Sclerophyll Forest
- Coastal Warm Temperate Rainforest

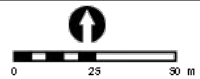
Aerial source: Nearmap



PROJECT & MXD REFERENCE
Clarence Road, Springfield
20AP02_BF001

DATE & ISSUE
5/11/2020
Issue 1


SCALE & COORDINATE SYSTEM
1:2,000 @ A4
GDA 1994 MGA Zone 56



TITLE
schedule 1 - bushfire protection measures

Document Path: N:\GIS\STORAGE\ENR_D\level20AP02_ClaranceRoad_sprfire\field\MXD\20AP02_BF001.mxd

Disclaimer: The mapping is indicative of available space and location of features which may prove critical in assessing the viability of the proposed works. Mapping has been produced on a map base with an inherent level of inaccuracy, the location of all mapped features are to be confirmed by a registered surveyor.

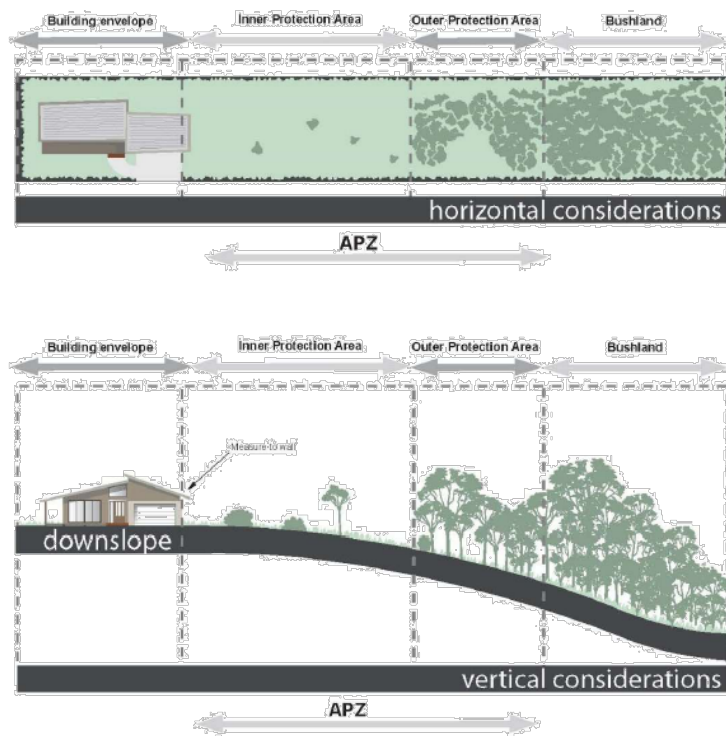


Management of Asset Protection Zones

A1

The RFS provides basic advice in respect of managing APZs through documents such as, *Standards for Asset Protection Zones* (RFS, 2005), with landscaping to comply with Appendix 4 of *PBP*.

The APZ generally consists of two subordinate areas, an inner protection area (IPA) and an outer protection area (OPA). The OPA is closest to the bush and the IPA is closest to the dwellings. The property is to be managed to IPA standards only. A typical APZ is graphically represented below:



APZs and progressive reduction in fuel loads (Source: PBP, 2019)

Note: Vegetation management as shown is for illustrative purposes only. Specific advice is to be sought regarding vegetation removal and retention from a qualified and experienced expert to ensure APZs comply with the RFS performance criteria.

The following provides maintenance advice for vegetation within the IPA. The APZ is to be maintained in perpetuity and should be undertaken regularly, particularly in advance of the bushfire season.

Inner protection area (IPA)

Fuel loads within the IPA are to be maintained so it does not exceed 4t/ha.

Trees are to be maintained to ensure;

- canopy cover does not exceed 15% at maturity;
- trees (at maturity) do not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above ground;
- tree canopies should be separated by 2 to 5m; and
- preference should be given to smooth barked and evergreen trees.

Shrubs are to be maintained to ensure;

- create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% of ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of vegetation.

Grass is to be maintained to ensure:

- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed (litter fuel within the IPA should be kept below 1cm)

Outer Protection Area (OPA)

Fuel loads within the OPA are to be maintained so it does not exceed 8t/ha.

Trees are to be maintained to ensure;

- Canopy cover does not exceed 30%
- Canopies should be separated by 2 to 5m

Shrubs are to be maintained to ensure;

- They do not form a continuous canopy
- Shrubs should be no more than 20% of ground cover

Grass is to be maintained to ensure:

- Grass should be kept mown to a height of less than 100mm: and
- Leaves and debris should be removed.

General advice for landscaping is provided below:

- Suitable impervious areas being provided immediately surrounding the building such as courtyards, paths and driveways;
- Restrict planting in the immediate vicinity of the building which may over time and if not properly maintained come into contact with the building;
- When considering landscape species consideration needs to be given to estimated size of the plant at maturity;

- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface / ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips / mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such timber garden furniture way from the building; and
- Use of low flammability vegetation species.

MEMO

TO: **BRIAN MCOURT - PLANNER**
FROM: **DANIELLE ALLEN - ECOLOGIST, ES**
SUBJECT: **DA REVIEW- DA55715 – 35 CLARENCE ROAD SPRINGFIELD**
DATE: **26/09/19**

Documents reviewed:

- Flora and Fauna Assessment by Keystone Ecological (23rd November 2018), including Assessments of Significance provided 18/09/19.
- Letter relating to *Rhodamnia rubescens* survey, Keystone Ecological, 6 August 2019.
- RFS General terms of Approval, 21 March 2019.
- Asset Protection Zone map, Australian Bushfire Consulting Services, submitted to Council , 20/08/19.
- Subdivision Plans (issue A, 5/10/2018).
- Statement of Environmental Effects
- Emails from applicant, including response to environmental issues dated 20/08/19.
- Referrals from Council staff in ECM DA file.
- Referrals from Council staff in ECM Rezoning file PP82/2015 (including Mairin Ireland, 21 March 2016).

Updated information

Joanne Mack had outlined that Council's Ecologist did not support the application.

Since the previous Ecology Referral, the RFS General terms of Approval (GTA's) have been issued (21 March 2019). The GTAs include a requirement that "*At the issue of a subdivision certificate, and in perpetuity, the entirety of proposed Lots 1 and 4 and the building envelopes on proposed Lots 2 and 3 shall be managed as an inner protection area (IPA)*". This would mean that the entirety of Lots 1 and 4 would be subject to clearing, which is an unacceptable level of impact in relation to the zoning, matters for consideration under section 4.15 of the EP&A Act and in relation to threatened species impacts. The RFS requirements also mean that the amount of clearing and corresponding ecological impacts have been underestimated in the Flora and Fauna Assessment, which assessed clearing of 1.5ha across the four lots which comprised the following area: "*4 building envelopes of 600 square metres + associated 3,000 square metres of APZ for each Building Envelope*" (email response from Lorelle Fitzpatrick, 20/08/19). Lots 1 and 4 alone comprise 2.07ha, most of which would be cleared.

Further information in the form of a letter regarding the Critically Endangered plant species *Rhodamnia rubescens* has also been provided (21 March 2019). This further information does not resolve the issues previously raised by Council's Ecologist. The *Rhodamnia rubescens* letter does not provide a map of individuals as requested and does not provide a revised Assessment of Significance under Section 5A of the EP&A Act to determine whether the proposal will have a significant impact on the species. The *Rhodamnia rubescens* on the site would likely be cleared as the plants are not within the area proposed for vegetation retention, but are within either the access or the IPA required by RFS on proposed Lots 1 and 4. This issue is covered in more detail under "Threatened species" below.

A large number of ecological issues remain unresolved.

The application is not supported, for the reasons outlined below.

Zoning

The current zoning is deferred matter; 7c2 and 7a. The 7c2 Scenic Protection zoning covers most of the site. The objectives of 7c2 zone is discussed in relation to the proposal below under the heading "Tree and Vegetation Clearing".

It is noted that the property is proposed to be zoned E2 Environmental Conservation under the draft LEP which has been publicly exhibited. This proposed zoning is due to the high environmental values and constraints of the site.

Comment by other Council officers

Council's engineer Phil Coon has requested that the following in order to further assess the DA;

- *Comment from Council Ecologist on additional info requested 3/1/19.*
- *Approval from Council Ecologist to the construction of the vehicle access handle/driveway and drainage, services and turning area required by RFS.*
- *Planner conditions for bushfire construction per RFS.*
- *Comment from Council Tree Officer post 6/12/18.*

Ecologist comment on the above:

Insufficient information has been provided from the applicant to address the above concerns. No detailed plans have been provided showing tree and vegetation removal required to construct vehicle access handle/driveway and drainage, services and turning area required by RFS.

The items requested by Council's Tree officer in December 2018, specifically detailed plans and an Arboricultural Impact Assessment, have not been provided.

Council's weeds officer outlined that the Flora and Fauna assessment failed to record the presence of a heavy infestation of notifiable weed *Salvinia molesta* in the downstream pond, which raises questions about the accuracy of the flora survey overall.

Tree and Vegetation Clearing

The 7c2 Scenic Protection zoning enables development for the purposes of rural-residential holdings to be carried out on land which is suitable for those purposes and which is unlikely "to adversely affect the aesthetic and scenic value of the land and its setting". Much of the site consists of a dense forested slope and includes tall visually significant trees on all lots, including Lots 1 and 4 fronting Clarence Road. No tree plan has been submitted to demonstrate that significant trees could be retained. The scale of clearing required to develop the four lots as proposed is likely to adversely affect the aesthetic and scenic value of the land and its setting.

Access to the proposed lots 2 and 3 would need to be constructed through a heavily vegetated and steep area of the site. No detailed plans have been provided showing tree and vegetation removal required to construct vehicle access handle/driveway and drainage, services and turning area required by RFS. Opportunities to minimise impact on significant trees is not provided for in the application as no tree plan or arborist report has been provided. No building envelopes or APZs are nominated on the proposed plans for lots 1 and 4. This fails to demonstrate that dwellings could be constructed on both lots with minimal visual or environmental impact. It also fails to provide the

required level of detail to demonstrate that environmental impacts have been avoided and minimised, including threatened species impacts.

The lack of a development footprint in the form of detailed plans does not allow Council to make an accurate assessment of the ecological impacts of the proposal. Based on the GTAs issued by RFS, Council would need to assume that the majority of Lots 1 and 4 would be cleared.

Threatened Species Matters

The site is ecologically constrained, including presence of Lowland Rainforest Endangered Ecological Community.

The Flora and Fauna Assessment outlines 27 threatened species with potential to occur on the development site. One critically endangered flora species was recorded and two threatened bats were recorded during survey.

Fourteen (14) hollow bearing trees were identified on the site across all four proposed lots. The flora and fauna survey conducted is insufficient to rule out the possibility of threatened bats or other fauna roosting or breeding within hollow bearing trees that would require removal. This is recognised by below statement taken from the Flora and Fauna Assessment.

“The other threatened bat species recorded foraging (Mormopterus norfolkensis Eastern Freetail-bat) may also roost and breed on site, as it is known to use hollow-bearing trees. A number of hollow-bearing trees within the potential development area would need to be removed, but these resources can be compensated for by the installation of appropriate nest boxes. This species is known to use nest boxes and so this recommended strategy is likely to mitigate the loss of this resource”. Flora and Fauna Assessment.

In relation to the above mitigation measure, there is no reference given to published literature which would show that bat boxes are a suitable mitigation measure for any hollow-dependant threatened species. The RMS has in fact stopped using bat boxes for these species based on recent studies that they are ineffective for tree roosting species and in future will only be using bat boxes under bridge structures to target the large-footed Myotis (presentation by Julie Ravillion, NSW Ecological Consultants Association Conference, 2019). Removal of trees used as roosting or breeding habitat could lead to significant impacts on threatened bat species.

The Critically Endangered plant species *Rhodamnia rubescens* is present on the site. Council requested a map of the locations of all *Rhodamnia rubescens*, but no map has been provided. It is only stated that “it was recorded along floristic Transect 2 within the centre of the development site”. The occurrence of this species is thus within the area of Lots 1 and 4 that would be required to be cleared for the access and for the IPA specified by RFS. No retention of this species is allowed for within the application as the recorded locations are not within the proposed areas of rainforest to be retained. Inadequate assessment for this species has been undertaken under Section 5A of the EP&A Act. This includes an absence of definition or regard to the local occurrence of the species. In addition, given the Critically Endangered status of this species Council’s Ecologist disagrees with the assertion given in the letter dated 6 August 2019 that the presence of this species provides “no special constraints” to the development. The population of this species on this site, although currently impacted by Myrtle Rust, may comprise the entirety of the local population of this species. In relation to population viability Council is required to apply the precautionary principle and the proposal has the potential to have a significant impact on the local population of this species.

Section 5A of the EP&A Act requires that Assessments of Significance are prepared in accordance with the DECC (2007) “*Threatened species assessment guidelines - The assessment of significance*”. The Assessments of Significance supplied with the application do not meet the requirements of the

DEC Guidelines. This includes a lack of definition of the local occurrence of the endangered community Lowland Rainforest or Critically Endangered plant species *Rhodamnia rubescens*, ineffective mitigation measures for fauna and an underestimate of the clearing required for the development when compared to the RFS General terms of Approval.

Gosford Rainforest Policy

Gosford Council's Rainforest Policy calls for a 50 metre wide development exclusion zone to act as a buffer for this sensitive and vulnerable vegetation community. The proposed APZs for future buildings in Lots 2 and 3 will be within this buffer. Although it is stated in the Flora and Fauna Assessment that "*This incursion into the buffer can be compensated for by active management within the buffer e.g. aggressive weed control*", no provision for the weed control such as provision of an enforceable Vegetation Management Plan has been provided. There is thus no certainty about the effectiveness of this measure.

SEPP 19 Urban Bushland

The site is located between Council owned bushland reserves (zoned E2 and RE1).

The property is identified for "Proposed COSS" acquisition, but has not been acquired.

The principles of SEPP 19 Urban Bushland are applicable but have not been addressed in the application. Where a public authority proposes to grant approval or development consent in relation to development on land to which this clause applies, "*the public authority shall not carry out that development or grant the approval or development consent unless it has taken into account:*

(c) the need to retain any bushland on the land,

(d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and

(e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes".

The proposal would clear an area of land located between two Council reserves. The retained low lying vegetation would provide some connectivity, but a larger area of the site would be cleared and developed. No detailed tree plan or Vegetation Management Plan has been submitted with the application that details how indirect impacts would be minimised and mitigated.

Conclusion

Based on the GTAs issued by RFS, Council would need to assume that the majority of Lots 1 and 4 would be cleared for dwellings, APZs and to provide the RFS and Council compliant access to lots 2 and 3. The Flora and Fauna Assessment, including the Section 5A Assessments of Significance for threatened species, assumes a maximum 1.5ha of clearing across all 4 lots. This is an underestimate that does not reflect the RFS GTAs.

The conclusion of the Flora and Fauna Assessment states "*The critical components of the proposal are the retention of the Rainforest, the retention of a large vegetated buffer of moist eucalypt forest with its inherent fauna and flora habitats, the active conservation management of that buffer and retained vegetation*". Council's Ecologist would argue that the above is not provided for by the proposal due to the scale of clearing of moist eucalypt forest to allow for four dwellings, the requirements of RFS that the entirety of Lots 1 and 4 be cleared as an IPA, encroachment of APZs into the rainforest buffer, lack of a Vegetation Management Plan that provides for active in perpetuity conservation management and lack of provision for retention of hollow bearing trees and vegetation that provide key habitat resources.

Summary of key issues:

- The RFS GTAs require that the entirety of Lots 1 and 4 be maintained as an IPA, which will lead to extensive clearing within these lots.
- The amount of clearing required by RFS is not reflected in the ecological impact assessments, which have underestimated the amount of clearing required to accommodate four dwellings and IPAs.
- The scale of removal of vegetation and significant trees on steep slopes is inconsistent with the current and proposed zoning.
- Inadequate information provided in relation to siting of building envelopes, access, servicing and APZs, including tree retention and removal plans.
- Potential for impacts on key threatened fauna habitat including hollow bearing trees and removal of the population of Critically Endangered tree species *Rhodamnia rubescens* present on site.
- Non compliance with Council Rainforest Policy in relation to provision of adequate buffers.
- Lack of a Vegetation Management Plan that provides for active in perpetuity conservation management of retained lands and to prevent indirect impacts on adjoining Council bushland.
- Section 5A of the EP&A Act requires that Assessments of Significance are prepared in accordance with the DECC (2007) "*Threatened species assessment guidelines - The assessment of significance*". The Assessments of Significance supplied do not meet the requirements of the DEC Guidelines. This includes a lack of definition or regard to the local occurrence of the endangered ecological communities or local population species tested, and an underestimate of the clearing required when compared to the RFS General Terms of Approval.

The application is not supported.

Danielle Allen - Ecologist